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# BULGARIAN TRADE AND INVESTMENT: A REALISTIC ASSESSMENT

*David A. Levy\**

## I. INTRODUCTION

**Bulgaria is a state undergoing a substantial transformation from a centralized, planned economy to a free market system. This Article looks at the political evolution of contemporary Bulgaria, identifies significant legal developments for international trade and investment, analyzes relevant economic factors, considers important bilateral and multilateral agreements affecting trade, and examines structures for foreign investment, including examples of investments by multinational enterprises. Privatisation of state enterprises and agricultural collectives, an important key to future economic vitality, is considered in-depth. Finally, the Article considers the problems of infrastructure and the social costs to Bulgarians of the new society and concludes with an identification of the potential for foreign investment in Bulgaria.<sup>1</sup>**

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<sup>1</sup> It is essential to understand that while the Bulgarian Constitution of 1991 provides a social structure that represents a quantum leap from the stagnation of the Communist era of Todor Zhivkov, many of the most progressive and democratic ideals of that document have yet to be fully implemented, due in part to the economic situation and the inability of the legislature to pass needed legislation. As is true with any State in transition, circumstances may change rapidly, therefore this Article reflects information understood to be accurate as of the time it was written. Any errors or

## II. HISTORICAL PERSPECTIVE

### A. *Overthrow of the Turks and Creation of the Bulgarian Kingdom*

The Kingdom of Bulgaria was conquered by the Turks becoming part of the Ottoman Empire in 1393.<sup>2</sup> The rising sense of Slavic cultural awareness which led to the separation of the Bulgarian Church from the Greek Orthodox patriarchy created the nationalist movement led by the revolutionary figure Vasil Levsky, whose "apostles" incited revolt against the Turks.<sup>3</sup>

Turkish rule over Bulgaria was terminated by the Russo-Turkish war of 1877-78 which helped create the historic relationship between Bulgaria and Russia which still exists today, even after the fall of Communism.<sup>4</sup> An independent constitutional monarchy was declared in 1908 pursuant to the liberal European model set forth in Bulgaria's Tirmovo Constitution of April 16, 1879.<sup>5</sup>

### B. *World War II and the Rise of Communism - 1947*

Bulgaria's King Boris entered into an alliance with the Axis powers during World War II. Despite pressures from the Nazi regime, the Bulgarian people protected their Jewish minority throughout the war.<sup>6</sup> Bulgaria surrendered to the Allies on September 9, 1944, and was occupied by the Red Army. The Bulgarian Fatherland Front, a coalition party which included the Communists seized political control. A referendum to abolish the monarchy was held on September 9, 1946, and the nation's name became the People's Republic of Bulgaria. A Grand National Assembly was convened which included elected members of opposition

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omissions are the sole responsibility of the author.

This Article relies on unofficial translations of Bulgarian laws, as there are currently no authorized English translations having the weight of authority. Only the original Bulgarian texts are official. Every attempt has been made, however, to assure accuracy while stating Bulgarian legal concepts in terms familiar to Western readers. Many of the English sources have not provided the full citations for the Bulgarian statutes, however, they have been listed where available.

<sup>2</sup> IVAN SIPKOV, *LEGAL SOURCES AND BIBLIOGRAPHY OF BULGARIA* 1 (1956).

<sup>3</sup> MERCIA MACDERMOTT, *THE APOSTLE OF FREEDOM: A PORTRAIT OF VASIL LEVSKY AGAINST A BACKGROUND OF 19TH CENTURY BULGARIA* *passim* (1979).

<sup>4</sup> SIPKOV, *supra* note 2, at 4-8.

<sup>5</sup> *Id.*

<sup>6</sup> Dan Izenberg & Bathsheva Tsur, *Place of Honor Reserved for Bulgarians*, JERUSALEM POST, Dec. 7, 1993, at 12, available in LEXIS, World Library, CURNWS File.

parties. The Communists repudiated the mandates of the opposition deputies, outlawed the principal opposition party,<sup>7</sup> and gained control of the Grand National Assembly. The Assembly thereupon adopted a new Constitution of the People's Republic of Bulgaria,<sup>8</sup> based on the Soviet Constitution of 1936.<sup>9</sup>

Under the forty-two years of Communist domination, Bulgaria suffered declining industrial productivity and increasing economic isolation from the world economy. In the final five years of Communist rule, the government began a program of discrimination against ethnic Turks, which was reversed by the democratic government following the end of Communism.<sup>10</sup>

### C. *Fall of Todor Zhivkov - 1989*

Communist rule over Bulgaria ended with the fall of Todor Zhivkov, who ruled Bulgaria for thirty-five years. Subsequently, Zhivkov was convicted of embezzling 21.5 million leva of public funds and was sentenced to prison for seven years.<sup>11</sup> In June, 1990, the Communists, campaigning under the name of Bulgarian Socialist Party (BSP), won a narrow majority of the seats in the National Assembly with the strong support of the agrarian vote over the primary opposition party, the Union of Democratic Forces (UDF).<sup>12</sup> The BSP was unable to govern despite a narrow majority and political stalemate was avoided by the appointment of an interim cabinet headed by the politically unaffiliated jurist Dimitar Popov.<sup>13</sup>

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<sup>7</sup> DURZHAVEN VESTNIK (State Gazette) No. 119 (Aug. 28, 1947) [hereinafter DV]. Under Bulgarian law, positive law such as legislative acts are required to be published in the DV within 15 days of their passage. CONSTITUTION OF THE REPUBLIC OF BULGARIA, art. 88(3) (DV No. 56, July 13, 1991) *translated in* SOFIA PRESS AGENCY, CONSTITUTION OF THE REPUBLIC OF BULGARIA (1991) [hereinafter 1991 BULG. CONST.].

<sup>8</sup> See PEOPLE'S REPUBLIC OF BULGARIA CONST. (Dec. 6, 1947) *translated in* CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BULGARIA (Zdravko Stankov trans., 1964).

<sup>9</sup> SIPKOV, *supra* note 2, at 8.

<sup>10</sup> See JOINT STAFFS OF THE SENATE COMM. ON FOREIGN RELATIONS AND HOUSE COMM. ON FOREIGN AFFAIRS, 103D CONG., 2D SESS., COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1993, 822 (Comm. Print 1994) [hereinafter COUNTRY REPORTS].

<sup>11</sup> Philippa Fletcher, *Bulgaria Convicts Dictator Zhivkov for Embezzlement*, Reuter News Service - CIS and Eastern Europe, Jan. 18, 1994, *available in* LEXIS, World Library, TXTEE File.

<sup>12</sup> Robert Dahl, *Bulgaria's Political Evolution*, BULG. LEGAL DEV., Feb. 1992, at 1.

<sup>13</sup> Stephan Kyutchukov, *Law on Economic Activity of Foreign Persons and on Protection of Foreign Investment*, 3 ISSUES IN BULG. L. 2 (1992).

#### D. Social Change - 1991 to Present

On July 12, 1991, the new Constitution of the Republic of Bulgaria<sup>14</sup> was signed by 309 of 400 members of the Grand National Assembly.<sup>15</sup> Elections were held for the National Assembly in October, 1991. The UDF held a narrow majority over the socialists and were able to form a new government in November, 1991, with the support of the predominantly ethnic Turkish Movement of Rights and Freedoms (MRF). Parliament subsequently approved the new cabinet headed by UDF leader Phillip Dimitriov as Prime Minister.<sup>16</sup> Dimitriov's government fell eleven months later after losing a no-confidence vote in Parliament and was replaced by a non-party "government of technocrats," headed by former university professor Lyuben Berov.<sup>17</sup> In January, 1992, the Bulgarian people had the first direct election of a President in their history, re-electing incumbent Zhelyu Zhelev, a UDF member and strong supporter of market reforms who had been appointed President by the National Assembly in 1990.<sup>18</sup>

After surviving a succession of no-confidence votes over a two-year period, Berov's non-party government resigned on September 2, 1994, citing the political stalemate in the National Assembly as the primary reason.<sup>19</sup> President Zhelev, acting under his authority pursuant to Article 99(5) of the Bulgarian Constitution,<sup>20</sup> dissolved the National Assembly, appointed a caretaker government headed by Reneta Indzhova, formerly head of the Privatisation Agency, and set December 18, 1994, as the date for Bulgaria's third general election since the fall of Todor Zhivkov in 1989.<sup>21</sup> The BSP won a clear majority in the national elections<sup>22</sup> and

<sup>14</sup> 1991 BULG. CONST., *supra* note 7.

<sup>15</sup> Kyutchukov, *supra* note 13.

<sup>16</sup> Dahl, *supra* note 12.

<sup>17</sup> Anthony Robinson, *Light at the End of the Tunnel*, FIN. TIMES, Oct. 13, 1994, at 13.

<sup>18</sup> *Id.*

<sup>19</sup> *Premier Berov Asks National Assembly to Accept Resignation*, BBC Summary of World Broadcasts, Sept. 9, 1994, available in LEXIS, World Library, BBCSWB File. See also *Berov Says Government is Resigning So That Parliament Can Decide*, BBC Summary of World Broadcasts, Sept. 5, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>20</sup> Absent an agreement on the formation of a government, the President shall appoint a caretaker government, dissolve the National Assembly and schedule new elections within the period established by Art. 64 para 3. [within two months of the expiration of the term of the preceeding National Assembly]. The President's act on the dissolution of the National Assembly shall also establish the date of the new general elections.

1991 BULG. CONST., *supra* note 7, at art. 99(5).

<sup>21</sup> *General Elections-President Dissolves Parliament and Calls Elections*, BBC Sum-

BSP leader Zhan Videnov was named as Bulgaria's new Prime Minister.<sup>23</sup>

### III. POST-COMMUNIST LEGAL STRUCTURE FOR COMMERCE AND INVESTMENT

The Bulgarian Constitution states as a fundamental principle that the economy of the Republic of Bulgaria is based on "free economic initiative."<sup>24</sup> Furthermore, the Constitution specifically provides protection for foreign investment. "All investments and economic activity by Bulgarian and foreign persons and corporate entities shall enjoy the protection of the law."<sup>25</sup> Foreign investors generally receive national treatment, with the exception of restrictions on the outright ownership of land<sup>26</sup> and the prohibition against investment in certain strategic industries.<sup>27</sup> Several recently enacted laws provide the statutory framework for foreign investment in Bulgaria's developing market economy.

#### A. *Law on Economic Activity of Foreign Persons and on Protection of Foreign Investment*

The Law on Economic Activity of Foreign Persons and on Protection of Foreign Investment,<sup>28</sup> which was passed by the National Assembly on February 16, 1992, established the basic law under which foreign individuals and corporations may invest in Bulgaria. It repeals much of the discredited Decree No. 56 on Economic Activity passed in the waning

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mary of World Broadcasts, Oct. 19,<sup>23</sup> 1994, available in LEXIS, World Library, BBCSWB File.

<sup>22</sup> *Bulgarian Socialists Win*, WASH. POST, Dec. 20, 1994, at A35.

<sup>23</sup> *President Proposes BSP Leader Videnov as Prime Minister*, BBC Summary of World Broadcasts, Jan. 26, 1995, available in LEXIS, World Library, BBCSWB File.

<sup>24</sup> 1991 BULG. CONST., *supra* note 7, at art. 19(1).

<sup>25</sup> *Id.* at art. 19(3).

<sup>26</sup> *Id.* at art. 22(1). "No foreign physical person or foreign legal entity shall acquire ownership over land, except through legal inheritance. Ownership thus acquired shall be duly transferred." Stephan Kyutchukov of the Center for the Study of Democracy, a Sofia think tank, attributes this restriction to lingering nationalist sentiments inspired by the land reform policies of the Agrarian Party which held political power in the 1920s. Kyutchukov, *supra* note 13, at 14.

<sup>27</sup> The Constitution provides that the state shall maintain a monopoly over "railway transport, the national postal and telecommunications networks, the use of nuclear energy, [and] the manufacturing of radioactive products, armaments, explosive and powerful toxic substances." 1991 BULG. CONST., *supra* note 7, at art. 18(4).

<sup>28</sup> Kyutchukov, *supra* note 15, at 3.

days of Communist rule,<sup>29</sup> which was widely blamed for stifling legitimate investment while permitting money laundering by Communist officials.

Article Three makes clear that foreign persons or firms with foreign participation<sup>30</sup> enjoy equal rights to economic activity as do Bulgarian citizens or wholly Bulgarian-owned firms except as provided by law.<sup>31</sup> Foreign participation in joint ventures is not limited to forty-nine percent, and may reach 100% in either newly created or existing enterprises.<sup>32</sup>

Foreign individuals are prohibited from owning land, although ownership of structures may be severed from the realty.<sup>33</sup> Moreover, foreign individuals seeking to relocate to Bulgaria in order to establish a sole proprietorship or to engage in a business venture wherein they will be subject to unlimited liability such as in a general partnership must obtain government approval.<sup>34</sup> This reflects the concern of the National Assembly for the security of creditors' rights.<sup>35</sup> Permission is also required to invest in banks and insurance companies<sup>36</sup> and to exploit natural resources from the territorial sea, continental shelf, or exclusive economic zone.<sup>37</sup> Approval is granted by the Council of Ministers or a designated agency,<sup>38</sup> with the banking applications subject to regulations promulgated by the Bulgarian National Bank.<sup>39</sup>

The Foreign Investment Law protects against expropriation,<sup>40</sup> regu-

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<sup>29</sup> *Id.* at 1.

<sup>30</sup> Either through direct investment or the establishment of a joint venture. Foreign Persons' Business Activity and Foreign Investment Protection Act, art. 3 [hereinafter Foreign Investment Law], *translated in* 1 COLLECTION OF BULGARIAN LAWS 101 (1993) [hereinafter BULG. LAWS].

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at art. 3(3) *translated in* 1 BULG. LAWS, *supra* note 30, at 101.

<sup>33</sup> *Id.* at art. 5(1) cl. 2, *translated in* 1 BULG. LAWS, *supra* note 30, at 101-02. *See also supra* note 22 and accompanying text.

<sup>34</sup> *Id.* at art. 3(4), *translated in* 1 BULG. LAWS, *supra* note 30, at 101.

<sup>35</sup> Kyutchukov, *supra* note 15, at 9.

<sup>36</sup> Foreign Investment Law, art. 5(3) cl. 2, *translated in* 1 BULG. LAWS, *supra* note 30, at 102.

<sup>37</sup> *Id.* at art. 5(3) cl. 4, *translated in* 1 BULG. LAWS, *supra* note 30, at 102. This provision is consistent with the U.N. Convention on the Law of the Sea. *See* U.N. Convention on the Law of the Sea, Dec. 10, 1982, arts. 2, 77, 58, 21 I.L.M. 1261. Bulgaria is a signatory to this Convention. *Id.*

<sup>38</sup> Foreign Investment Law, art. 6(1), *translated in* 1 BULG. LAWS, *supra* note 30, at 103.

<sup>39</sup> *Id.* at art. 6(1)-(2), *translated in* 1 BULG. LAWS, *supra* note 30, at 103.

<sup>40</sup> *Id.* at art. 10, *translated in* 1 BULG. LAWS, *supra* note 30, at 104.

lates bank deposits and mortgages made by foreign investors,<sup>41</sup> and specifically provides for the right to repatriate profits in hard currency.<sup>42</sup> Foreign investment is required to be registered with the Ministry of Finance,<sup>43</sup> within thirty days of the investment.<sup>44</sup> Despite a ten percent penalty for non-compliance,<sup>45</sup> the registration requirement is frequently overlooked.<sup>46</sup>

### B. Commercial Code

The structures of Bulgarian business enterprises are set forth in the Commercial Code,<sup>47</sup> along with their capital formation and dissolution. Business forms are divided into three broad categories of merchants: (1) "Sole Trader" (sole proprietor);<sup>48</sup> (2) "State and Municipal Enterprises";<sup>49</sup> and (3) "Commercial Companies"<sup>50</sup> which includes general partnerships,<sup>51</sup> limited partnerships,<sup>52</sup> limited liability companies,<sup>53</sup> and joint stock companies,<sup>54</sup> as well as consortiums<sup>55</sup> and holding companies.<sup>56</sup>

The joint stock company is analogous to a corporation having articles of incorporation,<sup>57</sup> classes of shareholders,<sup>58</sup> debentures,<sup>59</sup> and management by a board of directors<sup>60</sup> elected pursuant to an annual meeting of shareholders.<sup>61</sup> The Commercial Code also governs agency<sup>62</sup> and re-

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<sup>41</sup> *Id.* at arts. 12, 15, translated in 1 BULG. LAWS, *supra* note 30, at 104, 106.

<sup>42</sup> *Id.* at art. 13, translated in 1 BULG. LAWS, *supra* note 30, at 104-05.

<sup>43</sup> *Id.* at art. 11(2), translated in 1 BULG. LAWS, *supra* note 30, at 104.

<sup>44</sup> *Id.* at art. 11(1), translated in 1 BULG. LAWS, *supra* note 30, at 104.

<sup>45</sup> *Id.* at art. 16(2), translated in 1 BULG. LAWS, *supra* note 30, at 106.

<sup>46</sup> *Foreigners Invest \$220 Mln in Bulgaria Since 1990*, Reuter News Service - CIS and Eastern Europe, Nov. 16, 1993, available in LEXIS, World Library, TXTEE File.

<sup>47</sup> COMMERCIAL CODE OF BULGARIA, translated in 1 BULG. LAWS, *supra* note 30, at 46.

<sup>48</sup> *Id.* at arts. 56-60, translated in 1 BULG. LAWS, *supra* note 30, at 55-56.

<sup>49</sup> *Id.* at arts. 61-62, translated in 1 BULG. LAWS, *supra* note 30, at 55-56.

<sup>50</sup> *Id.* at arts. 63-280, translated in 1 BULG. LAWS, *supra* note 30, at 57-98.

<sup>51</sup> *Id.* at arts. 76-98, translated in 1 BULG. LAWS, *supra* note 30, at 59-63.

<sup>52</sup> *Id.* at arts. 99-112, translated in 1 BULG. LAWS, *supra* note 30, at 63-65.

<sup>53</sup> *Id.* at art. 113, translated in 1 BULG. LAWS, *supra* note 30, at 66.

<sup>54</sup> *Id.* at arts. 158-252, translated in 1 BULG. LAWS, *supra* note 30, at 74-93.

<sup>55</sup> *Id.* at arts. 275-276, translated in 1 BULG. LAWS, *supra* note 30, at 97.

<sup>56</sup> *Id.* at arts. 277-280, translated in 1 BULG. LAWS, *supra* note 30, at 97-98.

<sup>57</sup> *Id.* at art. 172, translated in 1 BULG. LAWS, *supra* note 30, at 76-77.

<sup>58</sup> *Id.* at arts. 178, 182, translated in 1 BULG. LAWS, *supra* note 30, at 77-78.

<sup>59</sup> *Id.* at arts. 204-218, translated in 1 BULG. LAWS, *supra* note 30, at 82-85.

<sup>60</sup> *Id.* at arts. 233-244, translated in 1 BULG. LAWS, *supra* note 30, at 88-92.

<sup>61</sup> *Id.* at arts. 222-223, translated in 1 BULG. LAWS, *supra* note 30, at 86-87.

<sup>62</sup> *Id.* at arts. 21-52, translated in 1 BULG. LAWS, *supra* note 30, at 49-54.



quires a regularized form of business records pursuant to the Accountancy Act.<sup>63</sup>

### C. *Protection of Competition Act*

The Protection of Competition Act<sup>64</sup> regulates antitrust and restraint of trade. Article Three defines a "dominant position" as one in which a business, either individually, or through subsidiaries, controls more than thirty-five percent of market share.<sup>65</sup> "Abuse" of that dominant position by engaging in activities in restraint of trade is prohibited.<sup>66</sup> Price fixing and allocations of markets by competitors are also prohibited,<sup>67</sup> as are acts of "unfair competition" including false advertising and trademark fraud.<sup>68</sup> Violations of the Act are subject to civil penalties.<sup>69</sup>

### D. *Intellectual Property Rights*

Bulgaria has recently passed a Patents Act<sup>70</sup> protecting "inventions which are new with an inventive character and industrial utility."<sup>71</sup> The duration of patent protection is for a period of twenty years following the date of filing.<sup>72</sup>

The new Copyright and Related Rights Act provides protection for creative works such as literature,<sup>73</sup> music,<sup>74</sup> theatrical works,<sup>75</sup> architec-

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<sup>63</sup> *Id.* at arts. 53-55, translated in 1 BULG. LAWS, *supra* note 30, at 54-55. See also Accountancy Act, Jan. 3, 1991, as amended by 36th National Assembly, Mar. 26, 1992, translated in 2 BULG. LAWS, *supra* note 30, at 48.

<sup>64</sup> Protection of Competition Act, translated in 1 BULG. LAWS, *supra* note 30, at 24.

<sup>65</sup> *Id.* at art. 3(2), translated in 1 BULG. LAWS, *supra* note 30, at 24.

<sup>66</sup> *Id.* at art. 7, translated in 1 BULG. LAWS, *supra* note 30, at 25.

<sup>67</sup> *Id.* at arts. 8-10, translated in 1 BULG. LAWS, *supra* note 30, at 26.

<sup>68</sup> *Id.* at art. 11, translated in 1 BULG. LAWS, *supra* note 30, at 26.

<sup>69</sup> *Id.* at art. 21, translated in 1 BULG. LAWS, *supra* note 30, at 29.

<sup>70</sup> Patents Act, translated in 2 BULG. LAWS, *supra* note 30, at 90.

<sup>71</sup> *Id.* at art. 6(1), translated in 2 BULG. LAWS, *supra* note 30, at 91.

<sup>72</sup> *Id.* at art. 16, translated in 2 BULG. LAWS, *supra* note 30, at 94.

<sup>73</sup> Copyright and Related Rights Act, art. 3(1)(1), (translated in 168 HOURS BBN, July 12, 1993) (BULGARIAN BUSINESS NEWS) (available by subscription, copy on file with author).

<sup>74</sup> *Id.* at art. 3(1)(2).

<sup>75</sup> *Id.* at art. 3(1)(3).

ture,<sup>76</sup> photography,<sup>77</sup> film,<sup>78</sup> - and significantly - computer software.<sup>79</sup>

#### *E. Delay in Enacting a Modern Bankruptcy Code*

The delay in enacting a modern bankruptcy code has greatly hindered economic development. The Parliament passed the long-awaited Bankruptcy Law on July 13, 1994 under pressure from the government and international financial institutions. The new law provides for the appointment of court-assigned receivers<sup>80</sup> and other procedures to protect the creditor's rights.

An additional section of the Bankruptcy Law governs insolvent commercial companies.<sup>81</sup> The rehabilitation of these firms includes possible debt rescheduling and reorganization of the enterprise.<sup>82</sup> Also, companies which are declared insolvent may halt the process by offering themselves for privatisation.<sup>83</sup>

### IV. ECONOMIC ANALYSIS

The current economic situation is growing tenuous with problems of unemployment,<sup>84</sup> rising inflation and producer prices,<sup>85</sup> and declining retail sales.<sup>86</sup> Combined with the currency instability of 1994, delays in privatisation, and losses suffered by Bulgaria's adherence to the U.N.

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<sup>76</sup> *Id.* at art. 3(1)(6).

<sup>77</sup> *Id.* at art. 3(1)(7).

<sup>78</sup> *Id.* at art. 3(1)-(4).

<sup>79</sup> *Id.* at art. 3(1)(1).

<sup>80</sup> Law on Bankruptcy art. 655-668, translated in PRICE WATERHOUSE, 2 BULGARIA REVIEW 75, 87 (1994) [hereinafter BULGARIA REVIEW].

<sup>81</sup> *Id.* at arts. 742-743, translated in 2 BULGARIA REVIEW, *supra* note 80, at 110.

<sup>82</sup> *Id.* at arts. 696-709, translated in 2 BULGARIA REVIEW, *supra* note 80, at 98.

<sup>83</sup> Law on Bankruptcy, Supplementary Provisions § 5, reprinted in 2 BULGARIA REVIEW, *supra* note 80, at 114.

<sup>84</sup> Unemployment from August, 1993 to August, 1994, was 13%, down 2.4% from the previous year according to the National Statistics Institute. Ivan Nenkov, *Inflation Clouds Bulgaria's Economic Outlook*, Reuter News Service - CIS and Eastern Europe, Sept. 22, 1994, available in LEXIS, World Library, TXTEE file.

<sup>85</sup> Producer prices rose 4.5% in February, 1994, according to the National Statistics Institute. Elisaveta Konstantinova, *Producer Prices Rise 4.5 Pct in February*, Reuter News Service - CIS and Eastern Europe, Mar. 23, 1994, available in LEXIS, World Library, TXTEE File.

<sup>86</sup> Retail sales fell 4.6% between January and September, 1994, according to the National Statistics Institute. *Statistics on Sales and Output of Private and Public Sectors*, BBC Summary of World Broadcasts, Oct. 27, 1994, available in LEXIS, World Library, BBCSWB File.

embargo against the former Yugoslavia, the economic outlook for 1995 and beyond is not optimistic, threatening social and political reforms.

#### A. Austerity Budget/Debt Crisis

The Bulgarian Parliament approved an austerity budget for 1994 backed by the International Monetary Fund. The budget includes a deficit of 6.7% of the gross domestic product (GDP) or 33.67 billion leva (\$9.3 billion).<sup>87</sup> Revenues are calculated at 100.17 billion leva (\$2.7 billion) and expenditures of 133.87 billion leva (\$3.6 billion). The budget includes interest payments of 6.5 billion leva (\$175.68 million) to the London Club of commercial creditors and 2.61 billion leva (\$70.65 million) to the Paris Club of official creditors.<sup>88</sup>

Stoyan Alexandrov, then Bulgarian Finance Minister, noted that the planned revenues are "strongly dependent on a properly functioning tax administration."<sup>89</sup> In 1993, state-owned enterprises were estimated to owe 10 billion leva (\$330 million) in taxes, much of which is likely to be uncollectable.<sup>90</sup> Bulgaria anticipates collecting twenty-five percent of the 1994 budget's planned revenue through the use of a value added tax (VAT), expected to be introduced in April, 1994.<sup>91</sup> The VAT is anticipated to generate 26.854 billion leva in 1994 and a new excise tax scheduled to come into force in April, 1994 is projected to generate 12.822 billion leva. The implementation of the new tax laws is critical to continued aid from the International Monetary Fund.<sup>92</sup>

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<sup>87</sup> Bulgaria's trade deficit for 1993 was \$695.1 million. *Commercial Debt Servicing to Cost 21% of Annual Exports-Paparisov*, EUROMONEY CENTRAL EUROPEAN, Aug. 1, 1994, available in LEXIS, World Library, TXTNWS File.

<sup>88</sup> Elisaveta Konstantinova, *Bulgaria Parliament Approves 1994 Austerity Budget*, Reuter News Service - CIS and Eastern Europe, Mar. 1, 1994, available in LEXIS, World Library, TXTEE File.

<sup>89</sup> Elisaveta Konstantinova, *Bulgaria Passes Key Part of 1994 Budget*, Reuter News Service - CIS and Eastern Europe, Feb. 28, 1994, available in LEXIS, World Library, TXTEE File.

<sup>90</sup> Philippa Fletcher, *Bulgaria Finance Minister Warns of Economic Crisis*, Reuter News Service - CIS and Eastern Europe, Nov. 8, 1993, available in LEXIS, World Library, TXTEE File.

<sup>91</sup> Konstantinova, *supra* note 89.

<sup>92</sup> *Bulgarian Excise Tariffs Expected from April 1*, Reuter News Service - CIS and Eastern Europe, Jan. 31, 1994, available in LEXIS, World Library, TXTEE File.

## 1. Foreign Debt

Bulgaria has a \$9.3 billion commercial debt, which it is offering to buy back at 25.1875 cents on each dollar of principal and related unpaid interest.<sup>93</sup> As a component of the debt reduction package, Bulgaria will offer commercial creditors shares in state enterprises in a debt for equity swap. This serves the dual purpose of helping to reduce the foreign debt and speed privatisation.<sup>94</sup>

The World Bank has agreed to support the debt reduction agreement reached with the London Club, an informal group of some 300 commercial bank creditors, on the condition that Bulgaria meets specific economic reform goals, such as the acceleration of privatisation and the implementation of the Bad Debt Law, permitting the removal of the burden of nonperforming loans from Bulgarian banks.<sup>95</sup> The fifty percent debt reduction agreement is to include debt buyback, a collateralized discount bond option, and a front-loaded interest reduction bond.<sup>96</sup> The European Union and the G-24 group of advanced industrialized states have agreed to extend credits of approximately \$268 million to support Bulgaria's balance of payments.<sup>97</sup>

## 2. Internal Debt

The internal debt is projected by the Finance Ministry to rise eighty-three percent to 153.4 billion leva by the end of 1994. Of this, 44.1 billion leva represents direct debt to the Bulgarian National Bank, the State Savings Bank, and the State Insurance Institute. The remaining 109.3 billion leva represent government securities and long-term government bonds under the program transforming state enterprise bad loans into government debt.<sup>98</sup> The Law on Bad Debts of State Enterprises, a key

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<sup>93</sup> *Bulgaria Sets Debt Buyback Price at 25.1875 Cents*, Reuter News Service - CIS and Eastern Europe, Mar. 8, 1994, available in LEXIS, World Library, TXTEE File.

<sup>94</sup> *Bulgaria to Hold Investment Road Show in April*, Reuter News Service - CIS and Eastern Europe, Mar. 30, 1994, available in LEXIS, World Library, TXTEE File.

<sup>95</sup> Elisaveta Konstantinova, *World Bank Backs Bulgaria Debt Deal if Targets Met*, Reuter News Service - CIS and Eastern Europe, Mar. 10, 1994, available in LEXIS, World Library, TXTEE File.

<sup>96</sup> *Bulgaria, Commercial Creditors Meet Next Week*, Reuter News Service - CIS and Eastern Europe, Jan. 6, 1994, available in LEXIS, World Library, TXTEE File.

<sup>97</sup> Elisaveta Konstantinova, *Bulgaria Makes Current Interest Debt Payments*, Reuter News Service - CIS and Eastern Europe, Mar. 30, 1994, available in LEXIS, World Library, TXTEE File.

<sup>98</sup> *Bulgaria '94 Domestic Debt Seen Up at 153 Bln Levs*, Reuter News Service -

condition to International Monetary Fund support, provides that all loans extended to state enterprises by the end of 1990 - plus accumulated interest - which remain unserviced for over 180 days as of July 31, 1993, will be transformed into long-term government securities. The twenty-five year bonds will be *book entry*, freely transferable, and may be used for collateral and privatisation after the finance ministry establishes functional regulations.<sup>99</sup>

The problem of the internal debt is exacerbated by the failure of the government to collect tax revenues which contributes to the internal debt and threatens vital municipal services.<sup>100</sup> In a statement sharply critical of the Bulgarian deficit, the IMF's representative in Bulgaria, Gregory Dahl, said: "I am not an expert in this field, but it seems to me that Bulgarian people have not yet learned to keep to the rules of the game known as the market economy. One of these is honest and regular payment of taxes."<sup>101</sup>

### *B. Inflation/Foreign Exchange*

The Bulgarian rate of inflation for 1994 was 121.9%,<sup>102</sup> well above the targeted rate of inflation under the 1994 austerity budget of forty-five percent.<sup>103</sup> The foreign exchange market has seen the value of the lev sink to as little as 66.10 leva to the dollar at year-end 1994,<sup>104</sup> after trading at twenty-eight leva to the dollar in mid-October, 1993.<sup>105</sup>

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CIS and Eastern Europe, Jan. 21, 1994, *available in* LEXIS, World Library, TXTEE File.

<sup>99</sup> *Bulgarian Parliament Passes Bad Loans Law*, Reuter News Service - CIS and Eastern Europe, Dec. 20, 1993, *available in* LEXIS, World Library, TXTEE File.

<sup>100</sup> *See, e.g., Mayor Declares Smolyan Town Bankrupt at News Conference*, BBC Summary of World Broadcasts, Dec. 15, 1993, *available in* LEXIS, World Library, BBCSWB File. *See also infra* note 270 and accompanying text.

<sup>101</sup> Philippa Fletcher, *IMF Concerned Over Bulgaria's Deficit*, Reuter News Service - CIS and Eastern Europe, Sept. 15, 1993, *available in* LEXIS, World Library, TXTEE File.

<sup>102</sup> Elisaveta Konstantinova, *IMF and World Bank Teams Due in Bulgaria Mid-Feb*, Reuter News Service - CIS and Eastern Europe, Feb. 8, 1995, *available in* LEXIS, World Library, TXTEE File [hereinafter, Konstantinova, *IMF and World Bank Teams Due*].

<sup>103</sup> Theodor Troev, *Bulgaria Expects to See Economic Recovery This Year*, EUROMONEY CENTRAL EUROPEAN, Feb. 15, 1994, *available in* LEXIS, World Library, TXTNWS File.

<sup>104</sup> Konstantinova, *IMF and World Bank Teams Due*, *supra* note 102.

<sup>105</sup> "Panic" in Sofia Foreign Exchange Market as Lev Slumps Against Dollar, BBC Summary of World Broadcasts, Mar. 31, 1994, *available in* LEXIS, World Library,

The lev has lost eighty-eight percent of its value in relation to the dollar over the first ten months of 1994.<sup>106</sup> Intervention by the National Bank to attempt to stabilize the lev cost Bulgaria \$102 million in 1994 before the state austerity budget was adopted on February 28, 1994.<sup>107</sup> Western economists have countered that the lev's decline has not kept pace with inflation of approximately eighty percent in 1992, sixty-five percent in 1993 and 121.9% in 1994, figures which are well below hyperinflation.<sup>108</sup> As a result of the inflation and the declining value of the lev, owners of stores selling foreign goods in Sofia are faced with the choice of either raising prices daily to cover replacement goods costs, quoting goods prices in hard currency, or closing their doors during periods of exchange volatility.<sup>109</sup>

### C. Interest Rates

As a result of the volatility in the foreign exchange rates and foreign currency markets, the Bulgarian National Bank has pursued a strict monetary policy of higher interest rates in order to support the lev. In January, 1994, the Bulgarian National Bank nearly doubled the interest rates on one week commercial bank deposits from twenty-seven to fifty-three percent in an attempt to tighten surplus liquidity and divert leva from speculation in the foreign exchange market.<sup>110</sup> In April, 1994, as the currency crisis worsened, money market funds ranged between 2.3 to over sixty points over the Bulgarian National Bank's sixty-two percent key central interest rate as available funds decreased from the market.<sup>111</sup>

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BBCSWB File.

<sup>106</sup> Ivan Nenkov, *Bulgarian Lev Seen Easing to Year End*, Reuter News Service - CIS and Eastern Europe, Oct. 3, 1994, available in LEXIS, World Library, TXTEE File.

<sup>107</sup> *Central Bank's Measures to Support Currency; Gold Reserve on Display*, BBC Summary of World Broadcasts, Mar. 31, 1994, available in LEXIS, World Library, BBCSWB File [hereinafter *Central Bank's Measures*].

<sup>153</sup> *Focus on Central and Eastern Europe: The Baltics*, DEP'T ST. DISPATCH, Dec. 2, 1991, available in LEXIS, INTLAW Library, DSTATE File.

<sup>154</sup> See Bulgarian American Center, *A Cross Cultural Initiative* (1993) (on file with author).

<sup>155</sup> *Business Centres Set Up by U.S. Peace Corps*, Reuter News Service - CIS and Eastern Europe, Mar. 10, 1994, available in LEXIS, World Library, TXTEE File. See generally, James Rupert, *In E. Europe, the Peace Corps Means Business: Traditional Grass-Roots Assistance Gives Way to Teaching of Marketing and Investment*, WASH. POST, Dec. 29, 1994, at A16 (discussing the shift in focus of Peace Corps efforts in Eastern Europe).

#### *D. Foreign Reserves*

As confidence in the lev falls, interest rates rise and demands are placed on the foreign exchange market. According to figures supplied by the Bulgarian National Bank, foreign currency reserves declined from \$1.02 billion in June, 1993,<sup>112</sup> to \$624 million at the end of February, 1994.<sup>113</sup> The lev lost around eighty-eight percent of its value in relation to the dollar during the period from December 31, 1993 through October, 1994,<sup>114</sup> reaching a low of seventy-eight to seventy-nine leva to the dollar on the Sofia Interbank Currency Market on March 29, 1994.<sup>115</sup> Under new currency export regulations, Bulgarian citizens are limited to the export of the equivalent of \$10,000 in cash within a calendar year. Higher amounts require the permission of the Bulgarian National Bank.<sup>116</sup> In addition, purchases of hard currency from exchange bureaus are limited to \$2,000 requiring invoices from banks above that amount. Bulgarian firms are requested to export currency only through bank transfers.<sup>117</sup>

#### *E. Economic Impact of Bulgarian Compliance with U.N. Sanctions Against the Former Yugoslavia*

The Bulgarian economy has suffered losses as a result of compliance with the U.N.-mandated sanctions against the former Yugoslavia. The Bulgarian government attributes losses of around \$6.1 billion from June, 1992, through August, 1994, due to the trade embargo,<sup>118</sup> which had the effect of blocking the route of sixty-five percent of its trade with western Europe.<sup>119</sup> According to Stefan Uzunov, economist with the Institute of

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<sup>112</sup> *Id.*

<sup>113</sup> *Foreign Currency Reserve in February 1994*, BBC Summary of World Broadcasts, Mar. 24, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>114</sup> Nenkov, *supra* note 106.

<sup>115</sup> "Panic" on Sofia Foreign Exchange Market as Lev Slumps Against Dollar, BBC Summary of World Broadcasts, Mar. 31, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>116</sup> *Bulgaria Raises Currency Export Limits*, Reuter News Service - CIS and Eastern Europe, Jan. 3, 1994, available in LEXIS, World Library, TXTEE File.

<sup>117</sup> *Bulgaria to Tighten Forex Export Rules*, Reuter News Service - CIS and Eastern Europe, Nov. 30, 1993, available in LEXIS, World Library, TXTEE File.

<sup>118</sup> *Deputy Premier Matinchev Discusses Embargo Losses with EU Monitors' Chief*, BBC Summary of World Broadcasts, Oct. 5, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>119</sup> *Bulgaria Confirms Support for Sanctions*, Reuter News Service - CIS and Eastern Europe, Dec. 4, 1993, available in LEXIS, World Library, TXTEE File.

Commerce, 49.6% of the losses were in the industrial sector, followed by losses of 37.6% in trade, 5.2% in transport, and 4.9% in agriculture. Seventy-six percent of the total losses were felt by state-owned enterprises, which contributed to the internal deficit.<sup>120</sup>

Bulgaria officially pursues a policy of "active neutrality" regarding the conflict in former Yugoslavia.<sup>121</sup> Regional dialogues have included Bulgaria's concern for the 30,000 ethnic Bulgarians who live in eastern Serbia along the border with Bulgaria.<sup>122</sup>

Responding to Bulgaria's request for economic relief while nevertheless maintaining Bulgarian support for the embargo, the United Nations recently announced plans to allow up to fifteen sealed trucks per day containing Bulgarian exports to western Europe to pass through a special corridor across Serbia.<sup>123</sup> In an address before the U.N. General Assembly, President Zhelyu Zhelev reiterated Bulgaria's commitment to the U.N. peacekeeping process, but stated that the direct losses which Bulgaria has sustained as of a result of U.N. sanctions against the former Yugoslavia, Libya, and Iraq amount to half of Bulgaria's foreign debt, "darken[ing] the prospects for economic recovery, development and reintegration into the world economy."<sup>124</sup>

#### F. Statistical Inaccuracies

A major obstacle facing anyone involved in an economic analysis of Bulgaria is the lack of accurate statistical data. The information on gross domestic product (GDP), trade, and employment provided by the National Statistical Institute (NSI) is generally recognized as imprecise. The official NSI figures on the GDP have a margin of error of five to seven percent due, in part, to inadequate information from the private sector and the so-called "shadow economy" of small private enterprises. Milcho Mladenov, head of the General Economic Statistics Department at the NSI, attributes

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<sup>120</sup> *Economist Details Losses Caused by Embargo on Yugoslavia*, BBC Summary of World Broadcasts, Dec. 23, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>121</sup> *Foreign Minister Daskalov's Talks in New York: Bulgaria's "Active Neutrality,"* BBC Monitoring Summary of World Broadcasts, Oct. 5, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>122</sup> Elisaveta Konstantinova, *Yugoslavia Asks Bulgaria to Mediate for Lifting of Sanctions*, Reuter News Service - CIS and Eastern Europe, Dec. 4, 1993, available in LEXIS, World Library, TXTEE File.

<sup>123</sup> *U.N. Lets Bulgarian Trucks Go Through Serbia*, Reuter News Service - CIS and Eastern Europe, Dec. 22, 1993, available in LEXIS, World Library, TXTEE File.

<sup>124</sup> *President Zhelev Addresses U.N. General Assembly: Yugoslav Crisis and Bulgaria*, BBC Monitoring Summary of World Broadcasts, Oct. 9, 1993, available in LEXIS, World Library, BBCSWB File.



this inaccuracy to the reluctance of small, private enterprises to provide statistical information because of fear of the tax liability.<sup>125</sup> Nevertheless, unreliable statistics hinder both public and private economic planning, creating an impediment to investment and development.<sup>126</sup>

#### V. BILATERAL AND MULTILATERAL COOPERATION AND AGREEMENTS

Following the breakdown of the Communist government, the Republic of Bulgaria has entered into a number of accords with Western governments and organizations on trade and security matters, as well as gradually reestablishing relations with its traditional ally, Russia.

##### A. NATO Partnership for Peace

Bulgaria signed the NATO Partnership for Peace initiative on February 16, 1994, in Brussels.<sup>127</sup> President Zhelev signed the framework agreement while stressing Bulgaria's desire for full membership in NATO.<sup>128</sup>

##### B. GATT

Bulgaria has applied for membership in the General Agreement on Tariffs and Trade (GATT). Currently, Bulgaria is the only former Council for Mutual Economic Assistance (COMECON) country which has yet to become a member.<sup>129</sup> President Clinton recently pledged U.S. support for Bulgaria's membership in GATT at a Washington meeting with Bulgarian President Zhelev.<sup>130</sup>

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<sup>125</sup> Bisser Boev, *Bulgarian Government, Statistics Institute, Clash Over GDP*, Reuter News Service - CIS and Eastern Europe, Jan. 28, 1994, available in LEXIS, World Library, TXTEE File.

<sup>126</sup> Philippa Fletcher, *Bulgaria Suffers from Statistics Headache*, Reuter News Service - CIS and Eastern Europe, Aug. 17, 1993, available in LEXIS, World Library, TXTEE File.

<sup>127</sup> *President Zhelev Signs Partnership for Peace - Task of Regional Stabilization*, Reuter News Service - CIS and Eastern Europe, Feb. 16, 1994, available in LEXIS, World Library, TXTEE File (excerpts from commentary).

<sup>128</sup> *Id.*

<sup>129</sup> *Dlouhy Discusses Extension of Commercial Cooperation in Bulgaria*, CSTK ECOSERVICE, Dec. 15, 1993, available in LEXIS, World Library, TXPRIM File.

<sup>130</sup> Yana Kozhukharova, *Bulgaria: Signing of Declaration on Principles of Bulgarian-U.S. Relations*, BBC Summary of World Broadcasts, Feb. 15, 1995, available in LEXIS, World Library, BBCSWB File.

### C. European Union

Bulgaria signed an accord for association with the European Union (E.U.), but the interim trade agreement was delayed by internal E.U. dissent,<sup>131</sup> prompting allegations by Bulgarian officials of discrimination compared with the favorable treatment accorded members of the Visegrad Four states of Hungary, Poland, Slovakia, and the Czech Republic.<sup>132</sup> The E.U. compensated for the delay by allowing a readjustment of export quotas for Bulgaria,<sup>133</sup> and the "Europe Agreement" of association, a first step toward full membership status in the E.U., came into force February 1, 1995.<sup>134</sup>

Under legislation passed by the Bulgarian government in anticipation of the E.U. trade agreement, sixty-nine percent of Bulgarian exports to the E.U. and twenty to twenty-nine percent of imports from it will receive duty-free status effective December 31, 1994.<sup>135</sup> Bulgaria also participates in the E.U.'s PHARE (Economic Reconstruction Aid for Poland and Hungary) program, receiving 400 million in E.C.U.s in redevelopment aid.<sup>136</sup>

### D. Black Sea Economic Cooperation Zone

Bulgaria, along with Albania, Armenia, Azerbaijan, Greece, Moldova, Russia, Romania, Turkey, and the Ukraine signed a declaration on Black Sea economic cooperation in June, 1992. The organization is designed to promote regional trade while attempting to avoid ethnic conflict.<sup>137</sup> The

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<sup>131</sup> *E.U. May Raise Bulgaria's Trade Quotas*, Reuter News Service - CIS and Eastern Europe, Mar. 25, 1994, available in LEXIS, World Library, TXTEE File.

<sup>132</sup> *See Zhelev Addresses E.C.-PHARE Conference in Sofia, Calls for Swifter Integration*, Reuter News Service - CIS and Eastern Europe, Oct. 2, 1993, available in LEXIS, World Library, TXTEE File. *See also Debt Negotiator Todorova Complains of EC Discrimination Against Bulgaria*, Reuter News Service - CIS and Eastern Europe, Oct. 5, 1993, available in LEXIS, World Library, TXTEE File.

<sup>133</sup> *E.U. Compensates Bulgaria for Losses from Delay in Trade Agreement*, BBC Summary of World Broadcasts, July 2, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>134</sup> *E.U./East Europe: Association Agreements Enter Into Force*, European Information Service: Euro East, Feb. 14, 1995, available in LEXIS, INTLAW Library, ECNEWS File.

<sup>135</sup> *Effective Date of Agreement With E.C. Brought Forward*, Reuter News Service - CIS and Eastern Europe, Jan. 6, 1994, available in LEXIS, World Library, TXTEE File.

<sup>136</sup> *European Union Official Reassures Bulgaria of Support for Economic Programme*, Reuter News Service - CIS and Eastern Europe, Mar. 30, 1994, available in LEXIS, World Library, TXTEE File.

<sup>137</sup> *Zhelev Addresses Meeting in Sofia*, Reuter News Service - CIS and Eastern

most important accomplishment of the group is the agreement to establish a regional development bank, the Black Sea Bank for Trade and Development. The Bank, which is to be patterned after regional banks such as the European Investment Bank and the European Bank for Reconstruction and Development, is to be located in Salonika, Greece.<sup>138</sup>

### *E. Russo-Bulgarian Trade Relations*

Bulgarian trade with Russia declined in the 1980s with the collapse of the Eastern European trade bloc COMECON and the difficulties facing both states in the transition to a market economy.<sup>139</sup> A primary obstacle is the acknowledgement and quantification of state debts and the establishment of a settlement mechanism.

In a recent move toward improved bilateral trade relations, Moscow acknowledged a \$100 million trade deficit with Bulgaria for 1990 and 1991, with payment fixed at 600 million transferable roubles and 480 million clearing dollars. Part of the Russian debt is to be satisfied by trade in equipment for Bulgaria's metallurgy, defense, and energy sectors. Bulgaria has a debt of over \$800 million<sup>140</sup> to six Russian banks located abroad. Trade between the two countries had been declining over the past four years, amounting to \$500-700 million during the first half of 1994.<sup>141</sup>

Russo-Bulgarian relations were strained by the recent remarks of Russian ultra-nationalist Vladimir Zhirinovsky while on a five-day visit to Sofia in 1993. Zhirinovsky, leader of the Russian Liberal Democratic Party, angered Bulgarians by his contentions that President Zhelev was a "political figure of the transition" who should resign,<sup>142</sup> that Greece and Turkey had territorial designs on the Balkans and the Caucasus, and that

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Europe, Dec. 11, 1993, *available in* LEXIS, World Library, TXTEE File.

<sup>138</sup> Elisaveta Konstantinova, *Salonika to Host Black Sea Regional Bank*, Reuter News Service - CIS and Eastern Europe, Dec. 9, 1993, *available in* LEXIS, World Library, TXTEE File.

<sup>139</sup> Elisaveta Konstantinova, *Russian Banks to Eye New Investment in Bulgaria*, Reuter News Service - CIS and Eastern Europe, Nov. 4, 1993, *available in* LEXIS, World Library, TXTEE File.

<sup>140</sup> Elisaveta Konstantinova, *Russia's Trade Deficit With Bulgaria \$100 Million*, Reuter News Service - CIS and Eastern Europe, Oct. 20, 1994, *available in* LEXIS, World Library, TXTEE File.

<sup>141</sup> *Russian-Bulgarian Trade Agreements Signed*, BBC Summary of World Broadcasts, Sept. 26, 1994, *available in* LEXIS, World Library, BBCSWB File.

<sup>142</sup> *Russia: Zhirinovsky on Private Visit to Bulgaria; Zhelev Accuses Him of Interference*, Reuter News Service - CIS and Eastern Europe, Dec. 30, 1993, *available in* LEXIS, World Library, TXTEE File.

neighboring Romania was an artificial state of "Italian gypsies."<sup>143</sup>

Zhelev responded by expelling Zhirinovsky from Bulgaria, stating that "[a] sovereign country which respects itself cannot let a politician from another country, even if it is a great one, insult the people with his statements . . . to redraw the borders with neighboring countries when there is war next door."<sup>144</sup>

Zhirinovsky's departure was delayed at the Sofia airport by an unrelated strike by Balkan Airlines pilots, prompting Zhirinovsky to state to a Russian embassy official: "[c]all Bulgaria's President and tell him he's scum. He takes better care of Russian prostitutes working in Bulgaria but offers no cooperation to Russian parliamentary deputies."<sup>145</sup> Russian Ambassador Alexander Adveev personally apologized to President Zhelev for Zhirinovsky's outbursts, stating that Russia "regrets that some Russian citizens on private visits to Bulgaria make statements which do not correspond to the ethics and culture of politicians."<sup>146</sup>

In an earlier statement commenting on the successes of Zhirinovsky's Liberal Democrats in Russian elections, President Zhelev said that given the "political realities . . . [Bulgaria] cannot form a bond of dependence on Russia in the current state of affairs, when it is not clear how exactly processes in Russia will develop and how long, difficult and complicated its transition to democracy will be. For me, this would be madness."<sup>147</sup>

#### *F. American Initiatives*

Bulgaria was granted Most Favored Nation trading status by the United States effective November 22, 1991.<sup>148</sup> Trade between the two nations has been steadily increasing since that time, with U.S. imports of Bulgarian goods estimated by the Commerce Department at \$112.9 billion during the first three quarters of 1993, with exports totaling an estimated \$84.5 million during that period. Principal U.S. imports included Bulgarian tobacco, fertilizers, cheese, wine, and office machinery; while principal

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<sup>143</sup> Liliana Semerdjieva, *Zhelev Says Zhirinovsky Expulsion Justified*, Reuter News Service - CIS and Eastern Europe, Dec. 29, 1993, available in LEXIS, World Library, TXTEE File.

<sup>144</sup> *Id.*

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Zhelev Says Success of Zhirinovskiy's Party Will Cause Difficulties for Russia*, BBC Monitoring Summary of World Broadcasts, Dec. 21, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>148</sup> Agreement on Trade Relations Between the United States of America and the Republic of Bulgaria, Proclamation No. 6307, 56 Fed. Reg. 29,787 (1991).

exports included maize, bituminous coal, cutlery, metal ores, civil aircraft and parts, computers, and laboratory and analytic equipment. Total American investment in Bulgaria has doubled over the past two years, reaching \$40 million invested by some seventy firms.<sup>149</sup>

Leading U.S. investors include Coca-Cola, Dow Chemical, Honeywell, Curtis Instruments, Sprint International, and the Kraft Jacobs Suchard Division of Philip Morris.<sup>150</sup> Trade between the two nations increased to \$62 million during the first half of 1992 with Bulgaria exporting wine, tobacco, dairy products, textiles, and manufactured goods into the United States. American exports to Bulgaria during that period included copper ore, bituminous coal, food products, books, soaps and cosmetics, electronic products, and machine tools and parts.<sup>151</sup>

### 1. Central and East European Law Initiative

The Central and East European Law Initiative (CEELI) of the American Bar Association has been very active in promoting the development and modernization of Bulgarian laws through legal training workshops, assistance in the assessment of draft laws,<sup>152</sup> and the provision of volunteer resident liaisons and legal specialists. CEELI has also created a sister law school program and has supported the Center for the Study of Democracy, a Sofia think tank.

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<sup>149</sup> Elisaveta Konstantinova, *IBM, ATT Help Bulgaria Launch Business Incubator*, Reuter News Service - CIS and Eastern Europe, Oct. 7, 1994, available in LEXIS, World Library, TXTEE File [hereinafter Konstantinova, *Business Incubator*].

<sup>150</sup> Bulgaria Fact Sheet/Background Information, Dept. Comm. Doc. 3101, available on EEBICFLASH Fax Service. See *infra* note 156 and accompanying text.

<sup>151</sup> *Bulgarian-U.S. Trade Expanding; U.S. Now One of Leading Trade Partners*, 9 Int'l Trade Rep. (BNA) No. 51, at 2196 (Dec. 23, 1992).

<sup>152</sup> The Central and Eastern Law Initiative (CEELI) of the American Bar Association is a public service project intended to advance law reform and the rule of law in Central and Eastern Europe and the Newly Independent States of the former Soviet Union. CEELI utilizes the voluntary efforts of American practitioners, judges, and law professors to provide a variety of assistance, including technical training and the assessment of draft laws as well as operating a sister law school project. CEELI has been active in Bulgaria since 1991. Janet Key, *Old Countries, New Rights*, ABA JOURNAL, May 1994, at 68, 70. See, e.g., Analysis of Bulgaria's Draft Legislation on Foreign Investment, CEELI, Mar. 1991.

## 2. The Bulgarian-American Enterprise Fund

The Bulgarian-American Enterprise Fund, a \$50 million, three-year program was established in November, 1991, to promote the development of the Bulgarian private sector. The program is designed to support equity investments, loans, and grants, as well as training and technical assistance, particularly in the area of Bulgarian agriculture.<sup>153</sup>

## 3. Peace Corps Business Resource Centers

The Peace Corps has a network of forty volunteers who have established business centers in eleven Bulgarian municipalities. For example, the Peace Corps has provided support for the Bulgarian American Center in Varna, with additional support provided by the Bulgarian-American Chamber of Commerce.<sup>154</sup> The goal of the program is the facilitation of Bulgarian-American trade through business networking and information sharing.<sup>155</sup>

## 4. Department of Commerce

The Eastern European Business Information Center (EEBIC) of the U.S. Department of Commerce, Office of International Trade Administration provides updated trade and investment information about Bulgaria online through the EEBIC Flash Fax, a 24-hour automated fax delivery system. Information available includes country profiles and economic data, news of trade fairs and promotions, joint venture and tendering opportunities, and lists of useful contact persons. The service is free and updated biweekly.<sup>156</sup> The Legal Text Service of the Commerce Department also publishes selected translations of Bulgarian laws that are available for a fee through the National Technical Information Service (NTIS).<sup>157</sup>

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<sup>153</sup> *Focus on Central and Eastern Europe: The Baltics*, DEP'T ST. DISPATCH, Dec. 2, 1991, available in LEXIS, INTLAW Library, DSTATE File.

<sup>154</sup> See Bulgarian American Center, *A Cross Cultural Initiative* (1993) (on file with author).

<sup>155</sup> *Business Centres Set Up by U.S. Peace Corps*, Reuter News Service - CIS and Eastern Europe, Mar. 10, 1994, available in LEXIS, World Library, TXTEE File. See generally, James Rupert, *In E. Europe, the Peace Corps Means Business: Traditional Grass-Roots Assistance Gives Way to Teaching of Marketing and Investment*, WASH. POST, Dec. 29, 1994, at A16 (discussing the shift in focus of Peace Corps efforts in Eastern Europe).

<sup>156</sup> EEBIC Flash Fax is available by dialing (202) 482-5745 from a touch-tone telephone.

<sup>157</sup> A catalogue of laws available from the Department of Commerce Legal Text

### 5. Overseas Private Investment Corporation

The Overseas Private Investment Corporation (OPIC) has sponsored investment tours of Bulgaria for American firms, including among others, GTE, Honeywell, and Texaco. OPIC has received inquiries totaling more than \$300 million for investment projects in Bulgaria.<sup>158</sup>

### 6. American/Bulgarian Business Incubator

The United States and Bulgaria established a "business incubator" in the Sofia World Trade Center to promote trade and commerce between the two countries. Contributors to the project included Xerox, IBM, and AT&T.<sup>159</sup>

### 7. Political Tensions

Bulgarian-American relations were shaken by remarks made by William Montgomery before the Senate Foreign Relations Committee on September 28, 1993, prior to his appointment as ambassador. Responding to a question about minority rights in Bulgaria, Montgomery criticized the provision of the 1991 Bulgarian Constitution which forbids political parties that are established on the basis of ethnic or religious lines.<sup>160</sup> Montgomery stated "[w]e would like to have the constitution changed. It is one of the things we are going to have to work on."<sup>161</sup> Predictably,

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Service may be obtained from the National Technical Information Service of the Technology Administration at (703) 487-4650.

<sup>158</sup> *U.S. Explores Investment in Bulgaria*, Reuter News Service - CIS and Eastern Europe, Oct. 18, 1993, available in LEXIS, World Library, TXTEE File.

<sup>159</sup> Konstantinova, *Business Incubator*, *supra* note 149.

<sup>160</sup> 1991 BULG. CONST., *supra* note 7, at art. 11(4) ("There shall be no political parties on ethnic, racial or religious lines . . . .") It is important to understand that although the Constitution prohibits the formation of such parties out of a concern for the ethnic strife that has befallen Bosnia and other parts of the former Yugoslavia, the Bulgarian Supreme Court, in a landmark human rights decision, concluded that the predominantly Turkish Movement for Ethnic Rights and Freedoms (MRF) should have the same rights of political expression as other parties. The Constitutional Court later affirmed this decision. Dr. Mario Bobatinov, *Judicial Reform in Bulgaria and Other New Democracies* (address presented to the American Society of International Law at Tillar House, Washington, D.C., Jan. 24, 1995). Dr. Bobatinov is a Justice of the Bulgarian Supreme Court.

<sup>161</sup> Philippa Fletcher, *New U.S. Ambassador Angers Bulgarians*, Reuter News Service - CIS and Eastern Europe, Oct. 9, 1993, available in LEXIS, World Library, TXTEE File.

Bulgaria reacted with anger at the diplomatic affront. Presidential spokesperson Valentin Stoyanov stated that "Bulgaria is a sovereign state and no-one[sic] can tell us what to do in our own country."<sup>162</sup>

In an attempt to diffuse the controversy, the U.S. Embassy in Sofia released a statement that both it and the envoy "reiterate categorically that it is the sovereign right of the citizens of Bulgaria and their duly elected representatives to determine the laws and constitution of their country."<sup>163</sup> Ultimately, President Zhelev met with Ambassador Montgomery on October 26, 1993, received his credentials, and following a long discussion, stated that "Bulgaria has a friend in the new U.S. ambassador."<sup>164</sup>

## VI. STRUCTURES OF FOREIGN INVESTMENT

Foreign investment in Bulgaria is increasing,<sup>165</sup> topping \$500 million by September, 1994.<sup>166</sup> Such investment in Bulgaria may be in the form of direct investment or a joint venture with Bulgarian participation. Either form requires the registration of foreign capital.

It is generally agreed that the amount of actual foreign investment is underestimated because of the widespread practice of not registering capital as required by law.<sup>167</sup> According to Daniela Bobeva, head of the Foreign Investment Commission, about sixty percent of the 1200 joint ventures in Bulgaria had not registered their foreign investments, despite risking a penalty of ten percent of the invested capital.<sup>168</sup>

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<sup>162</sup> *Protest Against U.N. Sanctions, U.S. Ambassador's Words on Bulgarian Constitution*, BBC Summary of World Broadcasts, Oct. 13, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>163</sup> Philippa Fletcher, *U.S. Sofia Envoy Moves to Defuse Row Over Ethnic Rights*, Reuter News Service - CIS and Eastern Europe, Oct. 11, 1993, available in LEXIS, World Library, TXTEE File.

<sup>164</sup> *President Zhelev Sees New U.S. Ambassador as a Friend of Bulgaria*, BBC Summary of World Broadcasts, Oct. 29, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>165</sup> Anthony Robinson, *Survey of Bulgaria*, FIN. TIMES, Oct. 13, 1994, at 13.

<sup>166</sup> Elisaveta Konstantinova, *Foreign Investment in Bulgaria Tops \$500 Million*, Reuter News Service - CIS and Eastern Europe, Sept. 26, 1994, available in LEXIS, World Library, TXTEE File.

<sup>167</sup> Foreign Person's Business Activity and Foreign Investment Protection Act, (DV No. 8, 1992) art. 11(1). "The foreign persons shall be obliged to register their investments in this country and the alterations in them within 30 days after the investment has been made." *Id.*

<sup>168</sup> See *id.* at art. 16(2). *Foreigners Invest \$220 Mln in Bulgaria Since 1990*, Reuter News Service - CIS and Eastern Europe, Nov. 16, 1993, available in LEXIS, World Library, TXTEE File.



While Bulgarian law specifically contemplates foreign direct investment,<sup>169</sup> joint ventures represent the preferred form of foreign investment in Bulgaria, with the majority of the proposals coming from Greek, German, Russian, Ukrainian, French, Austrian, and Belgian companies.<sup>170</sup>

#### A. Transportation

Skoda Plzen AS, the Czech engineering group is setting up a joint venture for the production of trolley buses. The investment is in the form of a joint stock company, with the Bulgarian bus manufacturer Chavdar Botevgrad taking a minority share. Skoda's contribution will be primarily know-how and market access.<sup>171</sup>

Rover Group, a recently acquired unit of Germany's Bayerische Motoren-Werke AG (BMW), entered into a joint venture to produce and distribute Rover vehicles in Bulgaria with the Daru Group, Bulgaria's BMW distributor. Under the terms of the agreement, the initial capital will be \$20 million, with Rover Group committing a further \$5 million to refurbish the Varna area factory that was acquired from the Privatisation Agency. The project will begin by assembling Rover Maestro automobiles, having a only five percent local content. It is anticipated that other models will be added, with sixty to eighty-five percent locally produced content, and that the plant will reach an annual output of 10,000 vehicles, both for the Bulgarian market and for export.<sup>172</sup>

#### B. Tobacco

Philip Morris, a division of RJR Nabisco, has recently entered into negotiations with the state-owned tobacco group Bulgartabak Holding EAD for a joint venture in the production and distribution of Philip Morris brand cigarettes in Bulgaria. It is anticipated that Bulgarian-grown tobacco will be blended into the products. The scope of investment potentially may be significant given that Philip Morris has already invested \$390 million in the Czech Republic, \$60 million in Hungary,

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<sup>169</sup> "A foreign person may conduct business activity in this country and acquire shares or stakes in commercial companies by the procedure provided for Bulgarian citizens and legal persons, having equal rights with them except if otherwise provided by law." Foreign Investment Law, art. 3(1), *translated in* 1 BULG. LAWS, *supra* note 30, at 101.

<sup>170</sup> Troev, *supra* note 103.

<sup>171</sup> *Skoda Plzen to Set Up Trolley Bus Joint Venture*, HOSPODARSKE NOVINY, Mar. 3, 1994, available in LEXIS, World Library, TXTEE File.

<sup>172</sup> *BMW's Rover Closes Bulgaria Car Assembly Deal*, Reuter News Service - CIS and Eastern Europe, Sept. 29, 1994, available in LEXIS, World Library, TXTEE File.

and \$40 million in Lithuania.<sup>173</sup>

### C. Petroleum

Shell Bulgaria Ltd., a subsidiary of Royal Dutch/Shell, is planning an expansion of its presence in Bulgaria, with a total investment of almost \$20 million anticipated. Shell will cooperate with the Neftochim refinery in Bourgas in the purchase and distribution of propane and butane gas.<sup>174</sup>

Texaco maintains a Bulgarian presence, reporting a new discovery of oil near Galata, 4.4 miles southeast of the Black Sea port of Varna. Texaco Exploration Offshore Bulgaria Ltd. has explored three spots on the Bulgarian Black Sea shelf.<sup>175</sup> Under Bulgarian law, licensed foreign oil companies which discover oil in Bulgaria are required to then enter into a joint venture with a Bulgarian producer. Such licenses are valid for a period of twenty-five years with four extensions of five years each permitted.<sup>176</sup>

### D. Electronics

The Dutch electronic giant Philips, and Badsen, a new Bulgarian venture, have entered into a business relationship for the production of television sets for the Bulgarian market, as well as for limited export. The sets are assembled in the northeastern Bulgarian town of Shumen using Dutch-made components.<sup>177</sup>

In a similar move the Korean conglomerate Daewoo has licensed the private Bulgarian firm Videomax to assemble Daewoo color televisions in the northeastern Bulgarian town of Vratza. Seventy percent of the production is exported to Russia and other former Soviet republics.<sup>178</sup>

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<sup>173</sup> Liliana Semerdjieva, *Philip Morris Plans Bulgaria Venture - Bulgartabak*, Reuter News Service - CIS and Eastern Europe, Mar. 11, 1994, available in LEXIS, World Library, TXTEE File.

<sup>174</sup> *Shell Plans Long-Term Partnership in Bulgaria*, Reuter News Service - CIS and Eastern Europe, Feb. 24, 1994, available in LEXIS, World Library, TXTEE File.

<sup>175</sup> *Texaco Drills in Black Sea*, BBC Summary of World Broadcasts, July 7, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>176</sup> Liliana Semerdjieva, *Bulgaria Seeks Foreign Firms for Oil Exploration*, Reuter News Service - CIS and Eastern Europe, Feb. 2, 1994, available in LEXIS, World Library, TXTEE File.

<sup>177</sup> Liliana Semerdjieva, *Philips, Bulgarian Firm Produce New TV Set*, Reuter News Service - CIS and Eastern Europe, Jan. 24, 1994, available in LEXIS, World Library, TXTEE File.

<sup>178</sup> Liliana Semerdjieva, *Daewoo TV Assembler to Expand in Balkans*, Reuter News

*E. Breweries*

Brewinvest of Greece purchased an eighty percent stake in Zagorka, a major Bulgarian brewery in the northeastern Bulgarian town of Stara Zagora, for \$21.7 million from the Privatisation Agency. A further \$41,357,000 has been committed for investment in upgrading manufacturing and marketing. The Dutch brewing giant Heineken owns a fifty percent interest in Brewinvest.<sup>179</sup> Currently, Zagorka exports approximately eight million liters per year.<sup>180</sup>

An agreement by the German brewer Brau und Brunnen to purchase a sixty-seven percent stake in the Kamentisa brewery from the Privatisation Agency fell through a dispute concerning Kamentisa's accounting practices. Brau und Brunnen had earlier agreed to pay DM 4.1 million for the Plovdiv area brewery with a commitment to invest an additional DM 3.8 million in the facility over the next two years. The manager of Kamentisa, Vassil Fillev, was later fired for allegedly hiding the company's debts from Brau und Brunnen.<sup>181</sup>

## VII. PRIVATISATION

The Council of Ministers created the Privatisation Agency in May, 1992, to oversee the denationalization of state enterprises having assets which exceed seventy million leva. After a slow start, the Privatisation Agency to date has sold a total of forty-seven enterprises. Of that figure, thirty-five firms valued at \$138.4 million were sold in 1994, bringing in revenues of \$46.6 million, settling debts of \$1.6 million, with a further \$121 in investment pledges shown.<sup>182</sup>

Ms. Reneta Indjova, then director of the Privatisation Agency, was sharply critical of the Western consultants funded in part by international agencies that were utilized prior to her tenure at the sluggish agency. The

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Service - CIS and Eastern Europe, Feb. 4, 1994, *available in* LEXIS, World Library, TXTEE File.

<sup>179</sup> *Heineken to Brew Bulgarian Zagorka Beer*, BBC Summary of World Broadcasts, Nov. 3, 1994, *available in* LEXIS, World Library, BBCSWB File.

<sup>180</sup> Lilian Semerdjieva, *Heineken May Invest in Bulgarian Brewery*, Reuter News Service - CIS and Eastern Europe, Jan. 26, 1994, *available in* LEXIS, World Library, TXTEE File.

<sup>181</sup> Tsvetelina Parvanova, *Bulgaria Fires Brewery Boss for Failed German Deal*, Reuter News Service - CIS and Eastern Europe, July 13, 1994, *available in* LEXIS, World Library, TXTEE File.

<sup>182</sup> Tsvetelina Paranova, *Bulgarian Agency Privatized 35 Firms in 1994*, Reuter News Service - CIS and Eastern Europe, Jan. 13, 1995, *available in* LEXIS, World Library, TXTEE File.

high fees paid to the consultants have led to charges of self-interest, thus slowing the process of privatisation of large scale enterprises such as Balkan Airlines.

We don't want any more technical assistance to come as [sic] consultants, schemes and programmes. If the world wants to help us, let it make it not in the way in which it recycles money meant for these programmes mainly for itself, but in a way, securing the right guarantees for foreign investments.<sup>183</sup>

Progress was also hampered by the numerous institutions authorized under Bulgarian law to privatize property, including local councils, the ministries, committees, and the Privatisation Agency. This multiplicity of authority is inefficient and results in institutions operating at cross-purposes.<sup>184</sup> John Wilton of the World Bank stated at a foreign investment conference in Sofia that the slow pace of privatisation has led to the "massive losses in the state sector . . . [potentially] threat[ening] macro-economic stability."<sup>185</sup>

Despite the slow pace of privatisation, the private sector in Bulgaria accounts for an increasing share of the economy. According to World Bank figures, the private sector is estimated to represent more than thirty-five percent of the 1994 GDP.<sup>186</sup> Estimates released by the NSI of private sector activity are lower, at twenty percent of the 1994<sup>187</sup> and 1993 GDP's, up from 9.5, 11.9, and 14.9% of GDP in 1990, 1991, and 1992 respectively. Milcho Mladenov, head of the general economic statistics department at NSI, estimates that private sector output may be understated by twenty-five to thirty percent due to information withheld out of concern for tax consequences.<sup>188</sup>

In a poll of 734 private business executives and entrepreneurs conducted by *Standart News* on August 18, 1993, 83.5% of those sur-

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<sup>183</sup> *Bulgaria Shuns Foreign Privatisation Consultants*, Reuter News Service-CIS and Eastern Europe, Dec. 14, 1993, available in LEXIS, World Library, TXTEE File.

<sup>184</sup> "Mass Privatisation" Plan Hindered But New Agency Chief Will Press On, Reuter News Service - CIS and Eastern Europe, Dec. 16, 1993, available in LEXIS, World Library, TXTEE File.

<sup>185</sup> *Slow Bulgarian Privatisation Threatens Stability*, Reuter News Service - CIS and Eastern Europe, Nov. 18, 1993, available in LEXIS, World Library, TXTEE File.

<sup>186</sup> Elisaveta Konstantinova, *Bulgarian Economy Recovers*, Reuter News Service - CIS and Eastern Europe, Jan. 19, 1995, available in LEXIS, World Library, TXTEE File.

<sup>187</sup> *Id.*

<sup>188</sup> *Private Sector Now 20 Pct of Bulgarian Economy*, Reuter News Service - CIS and Eastern Europe, Jan. 24, 1994, available in LEXIS, World Library, TXTEE File. See *supra* note 123 and accompanying text.

veyed stated that they consider their businesses profitable, in sharp contrast to the losses reported by state-owned enterprises. Roughly nineteen percent reported investments of between 100,000 and 1,000,000 leva in their businesses with more than eight percent reporting investments over one million leva. University graduates comprise fifty-seven percent of private businesspersons, primarily holding degrees in economics or engineering. Most businesses were reported to be small to medium size, with only 2.3% employing more than 100 workers.<sup>189</sup>

The Bulgarian government approved plans to create a special revolving fund dedicated to financing the privatisation of state-owned enterprises. The fund, maintained by a department of the Privatisation Agency, would depend on money from various international organizations and would provide financing of up to seventy percent of a given privatisation package. Interest on the loans is to be pegged at below market rates and would be collateralized by pledged shares in the privatized business. The fund will be available to Bulgarian nationals and cannot be utilized by foreign investors.<sup>190</sup>

Mass privatisation of state-owned enterprises, a key component of World Bank and IMF aid to Bulgaria,<sup>191</sup> was delayed by the resignation of the Bevov government.<sup>192</sup> A mass privatisation program, including a voucher system along the lines of the Czech model,<sup>193</sup> was to have begun in September, 1994, but Prime Minister Lyuben recommended postponing implementation until after the elections.<sup>194</sup> The new government, headed by the BSP, has a stated policy favoring voucher privatisation,<sup>195</sup> but has recently withdrawn its 1995 mass privatisation proposal for retooling.<sup>196</sup> Details of the new plan are not available as of this

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<sup>189</sup> *Development of Private Sector in Middle of 1993*, BBC Summary of World Broadcasts, Sept. 2, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>190</sup> *Bulgaria to Create Revolving Privatisation Fund*, Reuter News Service - CIS and Eastern Europe, Dec. 2, 1993, available in LEXIS, World Library, TXTEE File.

<sup>191</sup> Konstantinova, *IMF and World Bank Teams Due*, *supra* note 102.

<sup>192</sup> *Mass Privatisation May be Postponed in Bulgaria*, Reuter News Service - CIS and Eastern Europe, Sept. 7, 1994, available in LEXIS, World Library, TXTEE File.

<sup>193</sup> Rachel Canning, *Bulgaria: Privatisation Programme - Coming Out of the Shadows*, EUROMONEY CENTRAL EUROPEAN, Feb. 1, 1995, available in LEXIS, World Library, TXTNWS File.

<sup>194</sup> *Bulgarian Funding Depends on Reform Speed - Valchev*, Reuter News Service - CIS and Eastern Europe, Oct. 10, 1994, available in LEXIS, World Library, TXTEE File.

<sup>195</sup> *Bulgaria Appoints New Head of Mass Privatisation*, Reuter News Service - CIS and Eastern Europe, Feb. 6, 1995, available in LEXIS, World Library, TXTEE File.

<sup>196</sup> *Bulgaria to Revamp 1995 Privatisation Programme*, Reuter News Service - CIS and Eastern Europe, Feb. 2, 1995, available in LEXIS, World Library, TXTEE File.

writing.

Not all privatised state firms end up with foreign ownership. Nectar OOD, one of Bulgaria's largest canned fruit and vegetable producers, was sold to the Bulgarian-owned trading company Druster Commerce Holding for \$4.4 million. Druster acquired a sixty percent controlling stake in the firm whose reported annual sales are around \$2.4 million.<sup>197</sup> The Svoboda Kristal Kameno sugar plant, Bulgaria's second largest, was sold to the private sugar trading company Bartex, one of fifty firms comprising one of Bulgaria's most powerful financial firms, Multigroup. Bartex acquired an eighty percent stake in Svoboda Kristal for 220 million leva (\$7.1 million), with the remainder offered to current employees under the preferential terms of the Privatisation Act. Kristal is located in the Black Sea port of Bourgas and refines sugar for domestic consumption and export to the republics of the former Soviet Union and others. Bartex's purchase represented the largest privatisation deal to date with a Bulgarian buyer.<sup>198</sup>

Recognizing the need for structural reform to bolster the economy and speed privatisation, then Finance Minister Stoyan Alexandrov announced plans to bankrupt debt-ridden state enterprises. "Its a pity that we use bankruptcies as a form of privatisation . . . but this is inevitable. The sooner these factories go bankrupt, the better."<sup>199</sup>

#### A. *State Commercial Enterprises*

##### 1. *Balkan Airlines*

The Bulgarian government has attempted to privatize Balkan Airlines, the national air carrier, for over two years. After fruitless negotiations with Japanese, European, and American interests, the government has shifted its focus toward domestic investors. Under the new plan, the government will retain a forty percent stake in the airline with fifty-one percent of the total shares to remain in Bulgarian ownership. Current Balkan Air employees are permitted to purchase up to twenty percent on a preferential basis. Only Austrian Air had previously offered to acquire a twenty percent stake in the carrier, proposing to pay for the shares through transfer of know-how. This proposal was rejected by the Bulgari-

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<sup>197</sup> *Bulgaria Sells Juice Producer to Local Company*, Reuter News Service - CIS and Eastern Europe, Dec. 3, 1993, available in LEXIS, World Library, TXTEE File.

<sup>198</sup> *Bulgaria's Bartex Buys Svoboda Kristal Sugar Plant*, Reuter News Service - CIS and Eastern Europe, Dec. 6, 1993, available in LEXIS, World Library, TXTEE File.

<sup>199</sup> *Bulgaria to Bankrupt State Firms to Speed Reform*, Reuter News Service - CIS and Eastern Europe, Mar. 30, 1994, available in LEXIS, World Library, TXTEE File.

an Privatisation Ministry.<sup>200</sup>

The carrier operates a fleet of sixty-three mostly Soviet-made aircraft averaging over nineteen years in service. It has nine leased aircraft: three Boeing 737-500's, two Boeing 767-200's, and four Airbus A320's.<sup>201</sup> Balkan Airlines plans to purchase up to seven of the leased airplanes to boost its resources prior to privatisation.<sup>202</sup> The state-owned airline lost \$19 million in 1993.<sup>203</sup> In addition to Balkan Airlines, the Bulgarian government is seeking to privatize two smaller state-owned carriers, Hemus Air and Heli Air, a helicopter carrier, as well as seven crop dusting services.<sup>204</sup>

## 2. Kraft Jacobs Suchard

The Kraft Jacobs Suchard division of Philip Morris purchased an eighty percent stake in Republika, Bulgaria's largest and oldest chocolate manufacturer, with the remaining twenty percent offered to the workers. Under the terms of the agreement, Kraft paid \$2 million for its share with a commitment to invest an additional \$10 million. Kraft plans to continue Republika exports into the Russian and Ukrainian confectionery markets.<sup>205</sup> After the first eight months of joint operations, production, turnover, and profits have exceeded preliminary expectations with plans underway to increase plant capacity.<sup>206</sup> Kraft Jacobs Suchard has already acquired similar companies in Hungary, Slovakia, the Czech Republic, Poland, and Lithuania.<sup>207</sup>

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<sup>200</sup> *Balkan Airlines Tries to Find New Partner - Again*, EUROMONEY CENTRAL EUROPEAN, Feb. 15, 1994, available in LEXIS, World Library, TXTNWS File.

<sup>201</sup> Liliana Semerdjieva, *Bulgarian Airline Privatisation Delayed*, Reuter News Service - CIS and Eastern Europe, Nov. 10, 1993, available in LEXIS, World Library, TXTEE File.

<sup>202</sup> *Bulgaria's Balkan Airlines to Buy Leased Planes*, Reuter News Service - CIS and Eastern Europe, Aug. 26, 1994, available in LEXIS, World Library, TXTEE File.

<sup>203</sup> *Bulgarian Airline Launches Air Miles Scheme*, Reuter News Service - CIS and Eastern Europe, Jan. 28, 1994, available in LEXIS, World Library, TXTEE File.

<sup>204</sup> Liliana Semerdjieva, *Bulgarian Airline Sale Delayed by Airport Row*, Reuter News Service - CIS and Eastern Europe, Sept. 13, 1993, available in LEXIS, World Library, TXTEE File.

<sup>205</sup> *Kraft Marches into Bulgaria*, EUROMONEY CENTRAL EUROPEAN, Jan. 15, 1994, available in LEXIS, World Library, TXTNWS File.

<sup>206</sup> Elisaveta Konstantinova, *Suchard Expects Higher Profits in Bulgaria*, Reuter News Service - CIS and Eastern Europe, Oct. 10, 1994, available in LEXIS, World Library, TXTEE File.

<sup>207</sup> *Id.*

### 3. Nestle

The Swiss chocolate company Nestle acquired a seventy percent stake in the Chocolate and Sugar Products Sofia from the Privatisation Agency for \$2.1 million. Nestle has committed to repay the factory's outstanding debts of \$4.27 million and invest a minimum of \$7 million over the next five years.<sup>208</sup>

### B. Agrarian Privatisation

As of February, 1994, 47.7% of agrarian land confiscated by the Communists in the 1950s as part of their collectivization of agriculture has been returned to the original owners or their successors. The privatisation program, begun in 1991, is expected to transfer the remaining land by the end of 1996.<sup>209</sup> Restitution efforts have been slowed by excessive claims and lax verification standards on the part of certain courts. According to reports of the Agriculture Ministry, the amount of land being claimed by purported former owners is 35,000 hectares more than actually exists.<sup>210</sup>

Former collective farms are undergoing a process of liquidation whereby liquidation councils evaluate their assets and distribute asset shares among former farm members. Eighty-three percent of the work of the liquidation councils was estimated by the Ministry of Agriculture to be completed by the end of 1993.<sup>211</sup> According to reports of the Ministry of Agriculture, the state-owned agricultural enterprises lost more than 1.4 billion leva during the first half of 1993.<sup>212</sup>

Under a bill adopted on October 4, 1993, absentee land owners may now lease out their farmland. The measure was a political recognition of the fact that fifty-two percent of owners of decollectivised agricultural land now live in urban areas, and many prefer to lease the restored land

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<sup>208</sup> *Nestle Acquires Privatized Confectionery Manufacturer*, EUROMONEY CENTRAL EUROPEAN, Aug. 1, 1994, available in LEXIS, World Library, TXTNWS File.

<sup>209</sup> *Bulgarians Get Back Nearly Half Confiscated Land*, Reuter News Service - CIS and Eastern Europe, Feb. 8, 1994, available in LEXIS, World Library, TXTEE File.

<sup>210</sup> Liliana Semerdjieva, *Bulgaria to Speed Up Land Return but Claims Excessive*, Reuter News Service - CIS and Eastern Europe, Oct. 19, 1993, available in LEXIS, World Library, TXTEE File.

<sup>211</sup> *Most Cooperative Farms to be Wound Up by End of Year, Ministry Official Expects*, BBC Summary of World Broadcasts, Sept. 3, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>212</sup> *Business Losses in Public Sector in First Half of 1993*, BBC Summary of World Broadcasts, Sept. 2, 1993, available in LEXIS, World Library, BBCSWB File.



rather than relocate to agricultural regions. The measure also ensures that agrarian plots may be combined into productive uses, such as cultivation of grain crops that require large acreage.<sup>213</sup>

Special legislation has also been adopted by the Council of Ministers regarding the restitution of nationalized forests and forest estates to individuals, churches, monasteries, businesses, and municipalities. Additional legislation was adopted regulating the forestry industry and providing protection to categories of national public forests.<sup>214</sup>

### C. Bank Privatisation

The Bulgarian Bank Consolidation Company was set up in 1991 to merge the more than seventy banks scattered throughout the country into a dozen larger institutions and to prepare them for privatisation after a year of operation.<sup>215</sup> The Central Bank of Bulgaria has set forth a plan under which state-owned banks are to be privatized. The current law requires state banks to obtain permission from the Bulgarian National Bank in order to raise capital. Before granting permission, the Bulgarian National Bank conducts an evaluation of the bank's assets. This evaluation requirement, intended as a device to prevent asset stripping or so-called "hidden privatisation,"<sup>216</sup> has been criticized as slowing the process of recapitalization.<sup>217</sup>

Bulgarian bank deposits totaled 90.6 billion leva in June 1993, up 89.2% from the previous year.<sup>218</sup> Bulgarian banks report holding unperforming enterprise loans of 26.5 billion leva and \$1.85 billion. Under the Law for the Transformation of Unperforming Old Enterprise Loans, (Bad Debts of State Enterprises Law), such pre-1991 debts could be exchanged for long term government bonds. The bonds themselves could then be exchanged for shares in state enterprises up for privatisation

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<sup>213</sup> *Legislation on Leasing of Agricultural Land*, BBC Summary of World Broadcasts, Oct. 14, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>214</sup> *Legislation on Ownership and Use of Forests*, Reuter News Service - CIS and Eastern Europe, Oct. 14, 1993, available in LEXIS, World Library, TXTEE File.

<sup>215</sup> *Bulgaria Proposes Extension to State Grip on Banks*, Reuter News Service - CIS and Eastern Europe, Nov. 11, 1993, available in LEXIS, World Library, TXTEE File.

<sup>216</sup> *See Bulgarian Parliament Postpones Bank Privatisation*, Reuter News Service - CIS and Eastern Europe, Dec. 21, 1993, available in LEXIS, World Library, TXTEE File.

<sup>217</sup> *Bisser Boev, Bulgarian Central Bank Urges Bank Privatisations*, Reuter News Service - CIS and Eastern Europe, Feb. 9, 1994, available in LEXIS, World Library, TXTEE File.

<sup>218</sup> *Bulgarians Have 91 Billion in Levs in Bank Deposit*, Reuter News Service - CIS and Eastern Europe, Aug. 6, 1993, available in LEXIS, World Library, TXTEE File.

under a new government ordinance.<sup>219</sup> Adding the \$1.8 billion required to implement this transformation program is expected to raise the 1994 internal debt to over 200 billion leva.<sup>220</sup>

The European Bank for Reconstruction and Development (EBRD) acquired a thirty-five percent interest in the newly established Bulgarian Investment Bank, which has share capital of 200 million leva (\$6.3 million).<sup>221</sup> The Daewoo Corporation, a Korean industrial conglomerate with a strong interest in Bulgarian privatisation, has entered into negotiations to acquire a forty-nine percent stake in the Bulgarian Bank Parva Chastna Banka A.D. (First Private Bank).<sup>222</sup> Austria's Raiffeisen Zentralbank recently opened a subsidiary, Raiffeisen Bulgaria. Raiffeisen Bulgaria, the first Western subsidiary to operate in Bulgaria, is to become a corporate investment bank.<sup>223</sup> In addition, Commercial Bank, the second largest Greek banking group, has announced plans to set up a bank in Bulgaria.<sup>224</sup>

### VIII. INFRASTRUCTURE FOR INVESTMENTS

Business investment in Bulgaria is often frustrated by the economic infrastructure which deteriorated badly during the Communist regime. Structural deficiencies hampering Bulgarian economic growth include an inadequate telephone system, dated and overcrowded transportation networks, energy and water shortages,<sup>225</sup> and a banking system which is slowly adapting to a consumer-driven society. Recent efforts at economic development aid through the E.U.'s PHARE program and others represent positive steps toward alleviating these impediments to trade.<sup>226</sup>

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<sup>219</sup> Bisser Boev, *Bulgarian Banks Post 95 Billion Levs Bad Loans*, Reuter News Service - CIS and Eastern Europe, Feb. 15, 1994, available in LEXIS, World Library, TXTEE File.

<sup>220</sup> *Bulgaria '94 Domestic Debt Seen Up at 153 Bln Levs*, Reuter News Service - CIS and Eastern Europe, Jan. 21, 1994, available in LEXIS, World Library, TXTEE File.

<sup>221</sup> *EBRD Takes Stake in Bulgarian Investment Bank*, Reuter News Service - CIS and Eastern Europe, Dec. 22, 1993, available in LEXIS, World Library, TXTEE File.

<sup>222</sup> *Daewoo May Take Stake in Bulgarian Bank*, Reuter News Service - CIS and Eastern Europe, Dec. 2, 1993, available in LEXIS, World Library, TXTEE File.

<sup>223</sup> *Raiffeisen Zentralbank Opens Subsidiary in Bulgaria*, BBC Summary of World Broadcasts, Oct. 27, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>224</sup> *Greek Bank to Set Up Representation*, EUROMONEY CENTRAL EUROPEAN, Nov. 15, 1993, available in LEXIS, World Library, TXTNWS File.

<sup>225</sup> *Water Rationing Introduced*, 168 HOURS BBN, July 12, 1993, at 15 (BULGARIAN BUSINESS NEWS) (available by subscription, on file with author).

<sup>226</sup> See, e.g., *EC Medium-Term Aid Plan Under PHARE Programme*, BBC Summary of World Broadcasts, Aug. 5, 1993, available in LEXIS, World Library, BBCSWB File.

### A. Telephone Network

A major problem encountered by anyone who attempts to do business in Bulgaria is the outdated telephone system which is unable to cope with the demands placed on it. In addition to making normal voice communications an exasperating experience, the old technology has severely hampered the use of modern electronic data interchange. The antiquated system serves only 2.5 million users out of a population of 8.5 million.<sup>227</sup>

The Bulgarian Telecommunications Company, Ltd. (BTC) has signed contracts totaling \$300 million to modernize the telephone network. Fiberoptic telecommunications lines are being installed in western Bulgaria by Northern Telecom and Pirelli Construction, and in eastern Bulgaria by the French firm Alcatel Cable. U.S. Satellite Transmission System was awarded a contract to build an Intelsat-type surface satellite station and the Swedish company Ericsson will provide Bulgaria with a cellular telephone system. In addition, a Spanish subsidiary of Ericsson will build a digital overlay network in southern Bulgaria, with Siemens of Germany building one in the north. Siemens will also install an international digital exchange in Sofia.<sup>228</sup> Half of the funds for the modernization project have been provided by the European Bank for Reconstruction and Development, the European Investment Bank, and the World Bank with the balance coming from the BTC.<sup>229</sup> The digital overlay network is to be completed by 1996, and it is anticipated that by 2008, residential telephone service should be up to European standards.<sup>230</sup>

The Dutch telephone company PTT Telecom has entered into a joint venture with the state-owned BTC, whereby international calls to and from Sofia will be routed through the Netherlands, improving telecommunications links with the rest of the world.<sup>231</sup>

### B. Public transportation

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<sup>227</sup> *Bulgaria Signs Phone Deals Worth \$300 Million*, Reuter News Service - CIS and Eastern Europe, Aug. 16, 1993, available in LEXIS, World Library, TXTTEE File.

<sup>228</sup> *Bulgaria: Contracts; Negotiations*, EUROMONEY CENTRAL EUROPEAN, Oct. 15, 1993, available in LEXIS, World Library, TXTNWS File.

<sup>229</sup> *Bulgaria Signs Phone Deals Worth \$300 Million*, Reuter News Service - CIS and Eastern Europe, Aug. 16, 1993, available in LEXIS, World Library, TXTTEE File.

<sup>230</sup> *Bulgaria Starts Digital Overlay Network*, EUROMONEY CENTRAL EUROPEAN, Aug. 1, 1994, available in LEXIS, World Library, TXTNWS File.

<sup>231</sup> *PTT Telecom Seeks Wide Cooperation in Bulgaria*, Reuter News Service - CIS and Eastern Europe, Mar. 30, 1994, available in LEXIS, World Library, TXTTEE File.

### 1. Light Rail

Bulgaria is making progress on a planned thirty-three mile underground rail system. The Sofia municipal government recently signed an agreement with the German Linder group for an \$8.8 million tied investment credit.<sup>232</sup> The first five stations of the project, originally planned in 1977, are to be ready in early 1995.<sup>233</sup>

### 2. Heavy Rail

The Bulgarian State Railway has announced plans to modernize its railway transport system through an \$11 million purchase of electric locomotives from the Czech Skoda Plzen Heavy Engineering Company. Under the terms of the agreement, the state-owned railroad would purchase twenty locomotives and begin payments three years after delivery of the final engine. This would permit needed railway upgrading while allowing the purchase to be financed by generated revenue.<sup>234</sup>

### 3. Airport Modernization

Bulgaria has awarded a \$100 million contract to a joint venture, including the French company Campenon Bernard SGE, to rebuild and expand Sofia International Airport.<sup>235</sup> Thirty-six airlines utilized the Sofia airport in 1993, which reported a profit for the period. More than 67 million leva (\$2.5 million) was invested in airport plant and fixtures in 1993.<sup>236</sup> Average annual passenger traffic has increased to about 1.5 million passengers.<sup>237</sup>

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<sup>232</sup> *Bulgaria Seeks Foreign Investment for Metro Railway*, Reuter News Service - CIS and Eastern Europe, Mar. 7, 1994, available in LEXIS, World Library, TXTEE File.

<sup>233</sup> Bisser Boev, *First Section of Sofia Underground to Start by 95*, Reuter News Service - CIS and Eastern Europe, Mar. 2, 1994, available in LEXIS, World Library, TXTEE File.

<sup>234</sup> *Bulgaria Plans \$11 Mln Deal With Czechs' Skoda*, Reuter News Service - CIS and Eastern Europe, Nov. 12, 1993, available in LEXIS, World Library, TXTEE File.

<sup>235</sup> Liliana Semerdjieva, *French/Bulgarian Venture to Rebuild Sofia Airport*, Reuter News Service - CIS and Eastern Europe, Aug. 26, 1994, available in LEXIS, World Library, TXTEE File.

<sup>236</sup> *Bulgaria Invites Bids for \$90 Million Airport Repair*, Reuter News Service - CIS and Eastern Europe, Dec. 22, 1993, available in LEXIS, World Library, TXTEE File.

<sup>237</sup> Liliana Semerdjieva, *Bulgaria: Firms Bid for \$85 Million Sofia Airport Reconstruction*, Reuter New Service - CIS and Eastern Europe, Nov. 26, 1993, available in LEXIS, World Library, TXTEE File.

### C. Lack of Individual Checking Accounts

Bulgarian banks have traditionally not offered individual checking accounts, necessitating cash payments for routine consumer bills. Balkancard EOOD, a cooperative effort of Bulgarian banks Balkanbank AD and Kreditna Banka AD, will begin an experimental credit card operation in Blagoevgrad starting in April, 1994. The cards will serve as both debit and deferred payment cards. Cardholders will be required to have both a savings account and a current checking account.<sup>238</sup>

## IX. SOCIAL COSTS OF A NEW SOCIETY

### A. Inflation

The Bulgarian cumulative rate of inflation for 1994 reached 121.9% against a targeted inflation rate of forty-five percent.<sup>239</sup> The declining value of the lev, which reached as low as 66.10 leva to the dollar by the end of 1994,<sup>240</sup> has had a disastrous impact on pensioners, children, low-income groups, and doctors and teachers whose wages are paid by the state as a fixed sum.<sup>241</sup>

According to reports of the Bulgarian Consumer's Federation, the cost of living in February, 1994, had risen to 1,468 leva per month with seventy percent of Bulgarians living in poverty and households spending about forty percent of their combined incomes on food. In a family of four, if both parents work for minimum wage, they would have only about a quarter of the sum needed for a balanced diet.<sup>242</sup>

### B. Rising Energy Costs-Nuclear Power Risks

The National Electric Company, after negotiations with trade unions and the Tripartite Commission, made up of government, union, and employer interests, reached an agreement permitting the utility to raise domestic electricity prices by twenty-nine percent and home heating prices

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<sup>238</sup> Deyan Tzvetkov, *Bulgaria to Launch Local Credit Card System*, Reuter News Service - CIS and Eastern Europe, Feb. 28, 1994, available in LEXIS, World Library, TXTEE File.

<sup>239</sup> Konstantinova, *IMF and World Bank Teams Due*, *supra* note 102. The inflation rate in 1993 was 63.9%, down from 68.4% in 1992. Troev, *supra* note 103.

<sup>240</sup> Konstantinova, *IMF and World Bank Teams Due*, *supra* note 102.

<sup>241</sup> *Parties Comment on Foreign Exchange Crisis*, BBC Summary of World Broadcasts, Mar. 24, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>242</sup> *Problems of Family Housekeeping*, BBC Summary of World Broadcasts, Mar. 24, 1994, available in LEXIS, World Library, BBCSWB File.

by ninety percent, effective April 1, 1994. Industrial consumers face a thirty-nine percent hike effective March 15, 1994. With the lev falling in relation to the dollar, twenty percent of the total funds expended by the company went to the purchase of dollars. If the utility continues to borrow and buy dollars on the increasingly volatile foreign exchange market, the pressure on the lev will exacerbate the inflationary cycle.<sup>243</sup>

More than seventy-five percent of Bulgaria's energy expenditures goes to the purchase of imported raw materials,<sup>244</sup> which have been a major factor in the drain on Bulgarian foreign reserves contributing to the acceleration of the rate of inflation.<sup>245</sup> The National Electric Company which produces eighty-seven percent of the country's power, projected losses of 4.5 to 5.5 billion leva in 1994<sup>246</sup> after losing 4.92 billion leva in 1993.<sup>247</sup>

Bulgaria is heavily dependent on the Soviet-designed Kozloduy nuclear power plant which supplies forty percent of the country's energy needs. The troubled eighteen-year-old facility has been plagued with problems including fires caused by discarded piles of contaminated work clothing.<sup>248</sup> A sixth 1,000 megawatt reactor was brought on line in December, 1993, and quickly began operating at full capacity. Two smaller reactors had been closed in 1991, in response to international criticism of poor safety standards, with one reactor back on line after repairs were inspected and approved.<sup>249</sup>

The Bulgarian government signed a \$10 million contract with Westinghouse to construct a facility to reprocess low and intermediate

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<sup>243</sup> Liliana Semerdjieva, *Bulgaria Plans Power Price Rises From April 1*, Reuter News Service - CIS and Eastern Europe, Mar. 10, 1994, available in LEXIS, World Library, TXTEE File.

<sup>244</sup> Tsvetelina Paranova, *Bulgaria to Impose Huge Energy, Heating Price Rises [sic]*, Reuter News Service - CIS and Eastern Europe, Jan. 19, 1994, available in LEXIS, World Library, TXTEE File.

<sup>245</sup> *Dollar Demand Pushes Bulgaria Lev to Record Low*, Reuter News Service - CIS and Eastern Europe, Nov. 2, 1993, available in LEXIS, World Library, TXTEE File.

<sup>246</sup> Petko Shishkov, *Bulgaria Electric Co. Sees 5.5 Bln Levs Loss in '94*, Reuter News Service - CIS and Eastern Europe, Apr. 7, 1994, available in LEXIS, World Library, TXTEE File.

<sup>247</sup> Lilian Semerdjieva, *Bulgarian Energy Firm Has Big Loss in 1993*, Reuter News Service - CIS and Eastern Europe, Jan. 20, 1994, available in LEXIS, World Library, TXTEE File.

<sup>248</sup> *Background Radiation Level Stable After "Localized" Fire at Kozloduy*, BBC Summary of World Broadcasts, Dec. 6, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>249</sup> *Bulgaria Licenses Kozloduy Nuclear Reactor*, Reuter News Service - CIS and Eastern Europe, Dec. 30, 1993, available in LEXIS, World Library, TXTEE File.

level waste at Kozloduy,<sup>250</sup> and Ontario Hydro International Company won a bid worth 24 million E.C.U.'s to improve the safety of Kozloduy's four older reactors. Funds for the project were obtained through an agreement reached between The National Electric Company and the Group of Seven industrialized nations.<sup>251</sup>

Bulgaria was granted a \$93 million loan from the World Bank in 1993 to improve its power network. The European Investment Bank and the European Bank for Reconstruction and Development have extended \$96.1 million in credits for the construction of a new thermal power unit,<sup>252</sup> located at Maritza Istok, 150 miles southeast of Sofia. Bulgaria's thermal plants rely on high sulfur content lignite coal and areas surrounding the older power plants are heavily polluted.<sup>253</sup> The Council of Ministers recently approved a draft environmental protection law designed to reduce the dumping of industrial waste into the soil and waterways. The bill regulated the disposal of environmental contaminants and provides for damages to be assessed against violators.<sup>254</sup>

### C. Increased Crime

#### 1. Violent Crimes and Allegations of Organized Crime

Bulgaria, like many former states of the Soviet Union, has been faced with increasing crime. The crime rates were up 9.4% from January to September, 1993, over the previous year. Moreover, the types of crimes have become more serious in comparison to those of the Communist era. Sharp increases have been reported in murders, armed robberies, prostitution, and the protection rackets, giving rise to private security firms and calls for the right of ordinary citizens to carry firearms for personal protection.<sup>255</sup>

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<sup>250</sup> *Bulgaria to Build Nuclear Waste Storage Facility*, Reuter News Service - CIS and Eastern Europe, Dec. 23, 1993, available in LEXIS, World Library, TXTEE File.

<sup>251</sup> *Canadian Company to Improve Safety at Kozlodui* [sic], BBC Summary of World Broadcasts, Dec. 23, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>252</sup> Liliana Semerdjieva, *International Banks Study Bulgaria Energy Problems*, Reuter News Service - CIS and Eastern Europe, Feb. 18, 1994, available in LEXIS, World Library, TXTEE File.

<sup>253</sup> *Bulgaria Granted 85 Mln E.C.U. Power Plant Loans*, Reuter News Service - CIS and Eastern Europe, Dec. 9, 1993, available in LEXIS, World Library, TXTEE File.

<sup>254</sup> *Government Approves Trade Negotiations With E.U.*, BBC Summary of World Broadcasts, Dec. 9, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>255</sup> Philippa Fletcher, *Bulgarian Minister Backs Self-Help Against Crime*, Reuter News Service - CIS and Eastern Europe, Sept. 23, 1994, available in LEXIS, World Library, TXTEE File.

With the advent of capitalism, Bulgaria is learning firsthand how to cope with white-collar crimes such as fraud and embezzlement and is seeing an increase in electronic frauds in the finance and banking areas by computer "hackers."<sup>256</sup> Outbreaks of vandalism and anti-Semitic acts have been reported.<sup>257</sup> Bulgaria is also faced with combating cultural crimes such as the smuggling of icons and Byzantine antiquities stolen from archaeological sites and monasteries.<sup>258</sup>

Much of the controlled prostitution, racketeering, and smuggling of drugs and arms has been attributed to Russian organized crime elements which infiltrated Bulgaria following the fall of Communism.<sup>259</sup> Many of the persons involved in the protection rackets are alleged to be former Soviet veterans of the Afghan campaign.<sup>260</sup> Recently, a Balkan Airlines flight to London was canceled when officials received a call that a bomb had been placed on a Balkan Airlines A320 Airbus.<sup>261</sup>

Many of the problems of the crime rate have been identified with the deteriorating economic conditions<sup>262</sup> and the number of gaps in the criminal code which is a holdover from the Communist era, according to Interior Affairs Minister Viktor Mikhaylov.<sup>263</sup>

## 2. Drug Smuggling and Drug Related Crimes

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<sup>256</sup> *Sharp Increase in Crime Rate in January-September*, BBC Summary of World Broadcasts, Nov. 25, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>257</sup> *Jewish Building in Sofia Defaced With Anti-Semitic Slogan*, BBC Summary of World Broadcasts, Sept. 15, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>258</sup> *Bulgarian Police Find Antiques in the Toilet*, Reuter News Service - CIS and Eastern Europe, Sept. 24, 1993, available in LEXIS, World Library, TXTEE File.

<sup>259</sup> *Police Chief Notes Rise in Organized Crime*, BBC Summary of World Broadcasts, July 28, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>260</sup> *Liliana Semerdjieva, Russian Racketeers Muscle in on Bulgarian Sleaze*, Reuter News Service - CIS and Eastern Europe, Dec. 21, 1992, available in LEXIS, World Library, TXTEE File.

<sup>261</sup> *Bulgarian Airline Flight Cancelled by Bomb Threat*, Reuter News Service - CIS and Eastern Europe, Dec. 27, 1993, available in LEXIS, World Library, TXTEE File.

<sup>262</sup> See Adrian Bridge, *Out of Bulgaria: Red Frogs and a Return Ticket to Communism*, THE INDEPENDENT Oct. 30, 1993, available in LEXIS, World Library, TXTNWS File.

<sup>263</sup> *Interior Minister Tells Parliament Crime Caused by Gaps in the Law*, BBC Summary of World Broadcasts, Jan. 24, 1994, available in LEXIS, World Library, BBCSWB File.



Bulgaria has also seen an upsurge in drug smuggling<sup>264</sup> and violent, drug-related crime. For example, two Iranian drug dealers were recently killed in a shootout with police in downtown Sofia. Police found large amounts of heroin and hashish along with automatic weapons on the bodies.<sup>265</sup> It is estimated the number of substance abusers has increased since 1993, with drug experimentation beginning at a younger age.<sup>266</sup>

### 3. Calls for Death Penalty

Bulgaria, which placed a moratorium on the death penalty in 1990, is facing calls to reinstitute it due to the rise in crime and allegations of the growth of a Bulgarian mafia. President Zhelev, who opposes the death penalty morally and views it as an obstacle to European integration, stated an inclination to lift the ban until the National Assembly could pass a new criminal law mandating life imprisonment for certain crimes.<sup>267</sup>

### D. Health Costs

The Bulgarian Constitution of 1991 states an affirmative right to affordable health care.<sup>268</sup> Nevertheless, this socio-political idealism is tempered by economic reality. Nearly four years after the drafting of the Constitution, the health insurance program has not been drawn up and the government has no long-term health policy. With the decline in tax revenues in 1993, hospitals ran out of budgeted funds in the third quarter, forcing them to take on debt in order to pay for dressings, disinfectants, and heating. The majority of medicines are imported, placing demands on diminishing foreign currency reserves.

According to Deputy Health Minister Zlatitza Petrova, the financial crisis became so acute that the ministry had to order hospitals to perform

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<sup>264</sup> See, e.g., *Customs Seize Heroin at Ruse Border Checkpoint*, BBC Summary of World Broadcasts, Dec. 23, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>265</sup> *Iranians Shot Dead; Ambassador in Talks Over Halting Illegal Drugs Trade*, BBC Summary of World Broadcasts, Dec. 24, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>266</sup> *Drug Addiction in Bulgaria*, BBC Summary of World Broadcasts, June 29, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>267</sup> Philippa Fletcher, *Bulgaria Looks Again at Death Penalty*, Reuter News Service - CIS and Eastern Europe, Feb. 6, 1994, available in LEXIS, World Library, TXTEE File.

<sup>268</sup> 1991 BULG. CONST., *supra* note 7, at art. 52(1). "Citizens shall have the right to medical insurance guaranteeing them affordable medical care, and to free medical care in accordance with conditions and procedures established by a law." *Id.*

only emergency operations and certain specialized treatments. Contributing to the problem is the structure of the hospital system, itself a legacy of central planning. The inefficiency and duplication of services wastes funds and effectively paralyzes the entire hospital network. Large, general hospitals in rural areas, serving comparatively few people, are required to be kept running while specialized hospitals serving the entire country struggle to survive.<sup>269</sup> The E.U. rejected a request from the Bulgarian Foreign Aid Agency to provide humanitarian assistance to Bulgarian's hospitals.<sup>270</sup>

The general health of the nation is reportedly declining. According to Choudomir Nachev, a department director at the Medical University in Sofia, 1.5 million people are suffering hypertension and a third of the population is overweight. Bulgaria has one of the highest rates of strokes in the world, and one in fifty Bulgarians, a nation of avid cigarette smokers, suffers from lung cancer. Tuberculosis, which was once nearly wiped out, has reappeared.<sup>271</sup> Abortions are on the increase and outpaced live births in 1992 by 1.43 to 1.0. Infant mortality is very high, with 15.4 deaths per thousand in urban areas and 17.0 deaths per thousand in rural areas in 1992.<sup>272</sup> The Bulgarian National AIDS Laboratory reports that 132 Bulgarians have tested HIV-positive and thirty-two have developed the full symptoms of AIDS. Thirty deaths have been attributed to AIDS.<sup>273</sup> Eleven babies have been born to HIV-positive mothers, and one baby has been diagnosed with the infection.<sup>274</sup>

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<sup>269</sup> Liliana Semerdjieva, *Poverty and Slow Reform Choke Bulgaria's Health Service*, Reuter News Service - CIS and Eastern Europe, Dec. 21, 1993, available in LEXIS, World Library, TXTEE File.

<sup>270</sup> *Bulgaria: Surprise at E.C. Refusal of Appeal for Humanitarian Aid*, BBC Summary of World Broadcasts, Nov. 10, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>271</sup> Semerdjieva, *supra* note 269.

<sup>272</sup> *Births and Abortions in 1992*, BBC Summary of World Broadcasts, Dec. 23, 1993, available in LEXIS, World Library, BBCSWB File. According to the National Health Prophylaxis Centre in a report released in December, 1993, there were 96,522 live births in Bulgaria in 1992 compared with 138,705 abortions. *Id.*

<sup>273</sup> *AIDS Laboratory Chief Reports 32 Deaths*, BBC Summary of World Broadcasts, Aug. 25, 1994, available in LEXIS, World Library, BBCSWB File.

<sup>274</sup> *HIV in December, 1993*, BBC Summary of World Broadcasts, Dec. 9, 1993, available in LEXIS, World Library, BBCSWB File.

### *E. Religious Tension*

The Bulgarian Constitution of 1991 guarantees the free exercise of religion and the separation of church and state.<sup>275</sup> The influx of new religions, particularly those which emphasize proselytization, has been seen by some Bulgarians as a threat to the stability of Bulgarian society, which historically has been predominantly Eastern Orthodox,<sup>276</sup> with Islamic and Jewish religious minorities. With the advent of the Moonies and amid fears of Branch Davidian-type cults, many people called for the phased entry of non-Slavic religious groups into Bulgaria. The Bulgarian Helsinki Committee expressed concerns for a growing sentiment of religious intolerance,<sup>277</sup> with assaults occurring on Hare Krishnas in Sofia, and in one instance, a bomb threat reported against the opening of an evangelical Bible college.<sup>278</sup>

### X. CONCLUSION

What are the future prospects for investment in Bulgaria? After an overview such as this, one might conclude that investment, given the current volatility of the economy and uncertainties concerning the new BSP government would not be advisable. While the prospects for short-term returns in Bulgaria might be low, many transnational businesses are making commitments for long-term growth and investment. The current economic difficulties, while not de minimis, are not insurmountable, particularly when viewed in perspective of the enormous social progress made by the Bulgarian people since 1991.

President Zhelev identifies the problem as being caused by haste in the transition to a free market economy before the necessary institutional structures to support such an economy were fully in place.<sup>279</sup> Over time, these institutional structures will develop, and the Bulgarian citizens will adapt to and support them regarding them as the price to be paid for a democratic society.

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<sup>275</sup> 1991 BULG. CONST., *supra* note 7, at art. 13(1)-(2). "The practicing of any religion shall be free. The religious institutions shall be separate from the state." *Id.*

<sup>276</sup> The Constitution provides that Eastern Orthodox Christianity shall be considered the "traditional religion" of Bulgaria. *Id.* at art. 13(3).

<sup>277</sup> *Bulgarian Helsinki Committee Concerned About Religious Intolerance*, BBC Summary of World Broadcasts, Oct. 16, 1993, available in LEXIS, World Library, BBCSWB File.

<sup>278</sup> COUNTRY REPORTS, *supra* note 10, at 820.

<sup>279</sup> Text of Recorded Interview with President Zhelev Land Reform and Prospects for Early Elections, Broadcast on Panorama Programme, BBC Summary of World Broadcasts, Sept. 8, 1993, available in LEXIS, World Library, BBCSWB File.

Bulgaria is aware of the weaknesses in its infrastructure and is taking affirmative steps to correct them. While the social costs of a democratic society are becoming evident, they are the unfortunate consequence of the rejection of an authoritarian, centrally planned economy. Given this societal awareness and the readiness of Bulgaria to integrate itself into the world economy, the potential for long-term investment and growth in Bulgaria is ultimately favorable.

